



Issue Date: 11 September 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,
DEFENDANT'S MOTION TO COMPEL
AND DEFENDANT'S MOTION TO DESIGNATE WITNESSES**

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.

Under the court's Order issued August 14, 2017, Defendant moves the court for an Order compelling Plaintiff to produce documents, answer interrogatories, and designate witnesses for deposition. Plaintiff opposes the Motion on various grounds. The court considers each discovery request, and Plaintiff's response, separately.

I.
REQUESTS FOR PRODUCTION

Defendant asks the court to order production of the document described in its Requests for Production served on February 8, 2017. But Defendant does not provide the court with the original Requests. The omission is significant, because it appears to the court Defendant specifically defined the terms which are capitalized in the Requests, and the court does not have those definitions. Instead of denying the motion for that reason, the court takes the text of the requests from Plaintiff's Responses, attached as Exhibit "B" to the Declaration of Gary R. Siniscalco in sup-

port of the Motion, and rules on them as best it can under the circumstances. To avoid repetition, the court observes generally:

1. In several instances below, Plaintiff declines to produce documents on grounds of privilege, including “the attorney-client privilege, attorney work-product doctrine, the government’s deliberative process privilege, the governmental privilege for investigative files and techniques, the government’s informant privilege, the trial preparation privilege,” and others. But none of these privileges or doctrines shield from disclosure any facts or conclusions upon which Plaintiff relied to make, or which support, the allegations set forth in the Amended Complaint. Plaintiff has represented to the court, under Fed. R. Civ. Pro. Rule 11(b)(3), that the factual contentions of the Amended Complaint have evidentiary support. Defendant may properly discover that evidentiary support as relevant to the subject matter of this action. To this extent, the court overrules Plaintiff’s repeated objections based on privilege or work product. To the extent Plaintiff has analyzed any facts or data germane to this litigation, and *not* relied on such analyses to allege facts in the Amended Complaint, it may decline to disclose them (even though such disclosure might well be in the interests of all concerned).

2. To the extent Plaintiff claims documents are privileged from disclosure notwithstanding the foregoing, it must produce a privilege log within forty-five days of the date of issuance of this Order.

3. It is not the court’s intent to require Plaintiff to produce again documents it has produced before issuance of this Order. The court considers any documents produced before issuance of this Order to have been produced in compliance with this Order. At the same time, the court, having not seen the documents Plaintiff has produced already, knows nothing of their content.

Request No. 1

Defendant’s Request No. 1: ALL DOCUMENTS YOU reviewed in connection with the “compliance review” process identified in Paragraph 6 of the AMENDED COMPLAINT.

Plaintiff’s Response: OFCCP objects to this Request to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government’s deliberative process privilege, the governmental privilege for investigative files and techniques, the government’s informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP further objects on relevance grounds. Materials reflecting OFCCP’s internal deliberations and processes in its investigation are not relevant because they will not show, one way or the other, whether Oracle violated its equal opportunity obligations, including through engaging in systemic compensation and hiring discrimination.

OFCCP additionally objects to this Request to the extent it seeks documents that were created after March 11, 2016, which was the date the Notice of Violation was issued, because any such documents were created in anticipation of litigation and are protected by the work product doctrine, trial preparation privilege, and/or attorney-client privilege.

OFCCP further objects to the phrase “in connection with” as vague and ambiguous.

Subject to and without waiving the foregoing objections, OFCCP will produce all non-privileged documents contained in OFCCP’s investigative file for Oracle Redwood Shores (OFCCP Case No.: R00192699) (Siniscalco Declaration, Exhibit B, p. 2).

Discussion

Paragraph 6 of the Amended Complaint alleges “On or about September 24, 2014, pursuant to its neutral selection process, OFCCP initiated a compliance review under the Executive Order of Oracle’s headquarters in Redwood Shores, California.”

This Request is difficult to understand without the introductory definitions, but to the extent it seeks documents which Plaintiff reviewed in the course of its compliance review, it properly inquires about the factual bases underlying the allegations of the Amended Complaint. Accordingly, except to the extent it has already done so, Plaintiff must produce, within thirty days of the date of issuance of this Order, all documents in its possession, custody, or control which it reviewed in the course of its compliance review. To the extent Plaintiff fails to produce such documents, it admits it has no such documents in its possession, custody, or control.

Request No. 2

Defendant’s Request No. 2: ALL DOCUMENTS RELATED to the claim in Paragraph 7 of the Amended Complaint that “Oracle discriminated against qualified female employees in its Information Technology . . . lines of business or job functions” at HQCA.

Plaintiff’s Response: OFCCP objects to this Request to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government’s deliberative process privilege, the governmental privilege for investigative files and techniques, the government’s informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP further objects on relevance grounds. Materials reflecting OFCCP’s internal deliberations and processes in its investigation are not relevant because they will not show, one way or the other, whether Oracle violated its equal opportunity obligations, including through engaging in systemic compensation and hiring discrimination.

OFCCP additionally objects to this Request to the extent it seeks documents that were created after March 11, 2016, which was the date the Notice of Violation was issued, because any such documents were created in anticipation of litigation and are protected by the work product doctrine, trial preparation privilege, and/or attorney-client privilege.

OFCCP further objects to the phrase “related to” as overly broad and unduly burdensome.

Subject to and without waiving the foregoing objections, OFCCP will produce all non-privileged documents contained in OFCCP’s investigative file for Oracle Redwood Shores (OFCCP Case No.: R00192699) (Siniscalco Declaration, Exhibit “B,” pp. 2-3).

Discussion

Paragraph 7 of the Amended Complaint alleges that OFCCP’s compliance review revealed Oracle had discriminated against qualified female employees “from at least January 1, 2014, and on information and belief, from 2013 going forward to the present.” While the Request is not a model of clarity, Defendant may fairly inquire as to the factual basis of this allegation, including seeking supporting documents.

Except to the extent it has already done so, Plaintiff must produce, within thirty days of the date of issuance of this Order, all documents in its possession, custody, or control setting forth facts supporting, or upon which it relied in making, the factual assertions cited in this Request. To the extent Plaintiff fails to produce such documents, it admits it has no such documents in its possession, custody, or control.

Request No. 3

Defendant’s Request No. 3: ALL DOCUMENTS RELATED to the claim in Paragraph 7 of the Amended Complaint that “Oracle discriminated against qualified female employees in its . . . Product Development . . . lines of business or job functions” at HQCA.

Plaintiff’s Response: OFCCP objects to this Request to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government’s deliberative process privilege, the governmental privilege for investigative files and techniques, the government’s informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP further objects on relevance grounds. Materials reflecting OFCCP’s internal deliberations and processes in its investigation are not relevant because they will not show, one way or the other, whether Oracle violated its equal opportunity obligations, including through engaging in systemic compensation and hiring discrimination.

OFCCP additionally objects to this Request to the extent it seeks documents that were created after March 11, 2016, which was the date the Notice of Violation was issued, because any such documents were created in anticipation of litigation and are protected by the work product doctrine, trial preparation privilege, and/or attorney-client privilege.

OFCCP further objects to the phrase “related to” as overbroad and unduly burdensome.

Subject to and without waiving the foregoing objections, OFCCP will produce all non-privileged documents contained in OFCCP’s investigative file for Oracle Redwood Shores (OFCCP Case No.: R00192699) (Siniscalco Declaration, Exhibit “B,” pp. 3-4).

Discussion

The court considers this Request analogous to Request No. 2, and rules accordingly. Except to the extent it has already done so, Plaintiff must produce, within thirty days of the date of issuance of this Order, all documents in its possession, custody, or control setting forth facts supporting, or upon which it relied in making, the factual assertions cited in the Request. To the extent Plaintiff fails to produce such documents, it admits it has no such documents in its possession, custody, or control.

Request No. 4

Defendant’s Request No. 4: ALL DOCUMENTS RELATED to the claim in Paragraph 7 of the Amended Complaint that “Oracle discriminated against qualified female employees in its . . . Support lines of business or job functions” at HQCA.

Plaintiff’s Response: OFCCP objects to this Request to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government’s deliberative process privilege, the governmental privilege for investigative files and techniques, the government’s informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP further objects on relevance grounds. Materials reflecting OFCCP’s internal deliberations and processes in its investigation are not relevant because they will not show, one way or the other, whether Oracle violated its equal opportunity obligations, including through engaging in systemic compensation and hiring discrimination.

OFCCP additionally objects to this Request to the extent it seeks documents that were created after March 11, 2016, which was the date the Notice of Violation was issued, because any such documents were created in anticipation of litigation and are protected by the work product doctrine, trial preparation privilege, and/or attorney-client privilege.

OFCCP further objects to the phrase “related to” as overbroad and unduly burdensome.

Subject to and without waiving the foregoing objections, OFCCP will produce all non-privileged documents contained in OFCCP's investigative file for Oracle Redwood Shores (OFCCP Case No.: R00192699) (Siniscalco Declaration, Exhibit "B," p. 4).

Discussion

The court considers this Request analogous to Request No. 2, and rules accordingly. Except to the extent it has already done so, Plaintiff must produce, within thirty days of the date of issuance of this Order, all documents in its possession, custody, or control supporting, or upon which it relied in making, the factual assertions cited in the Request. To the extent Plaintiff fails to produce such documents, it admits it has no such documents in its possession, custody, or control.

Request No. 5

Defendant's Request No. 5: ALL DOCUMENTS RELATED to YOUR determination of which employees are "qualified," as alleged in Paragraph 7 of the Amended Complaint, including but not limited to DOCUMENTS RELATED to the methodology used to make such a determination.

Plaintiff's Response: OFCCP objects to this Request to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government's deliberative process privilege, the governmental privilege for investigative files and techniques, the government's informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP further objects on relevance grounds. Materials reflecting OFCCP's internal deliberations and processes in its investigation are not relevant because they will not show, one way or the other, whether Oracle violated its equal opportunity obligations, including through engaging in systemic compensation and hiring discrimination.

OFCCP additionally objects to this Request to the extent it seeks documents that were created after March 11, 2016, which was the date the Notice of Violation was issued, because any such documents were created in anticipation of litigation and are protected by the work product doctrine, trial preparation privilege, and/or attorney-client privilege.

OFCCP further objects to the phrase "methodology" as vague and ambiguous and overbroad and unduly burdensome.

Subject to and without waiving the foregoing objections, OFCCP will produce all non-privileged documents contained in OFCCP's investigative file for Oracle Redwood Shores (OFCCP Case No.: R00192699) (Siniscalco Declaration, Exhibit "B," pp. 4-5).

Discussion

To the extent it has not already done so, Plaintiff must produce, within thirty days of the date of issuance of this Order, all documents in its possession, custody, or control upon which Plaintiff relied to determine, or supporting Plaintiff's determination, that certain employees were "qualified" as alleged in paragraph 7 of the First Amended Complaint. To the extent Plaintiff fails to produce such documents, it admits it has no such documents in its possession, custody, or control.

Request No. 6

Defendant's Request No. 6: ALL DOCUMENTS RELATED to YOUR determination of which employees are "comparable males," as alleged in Paragraph 7 of the Amended Complaint, including but not limited to DOCUMENTS RELATED to the methodology used to make such a determination.

Plaintiff's Response: OFCCP objects to this Request to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government's deliberative process privilege, the governmental privilege for investigative files and techniques, the government's informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP further objects on relevance grounds. Materials reflecting OFCCP's internal deliberations and processes in its investigation are not relevant because they will not show, one way or the other, whether Oracle violated its equal opportunity obligations, including through engaging in systemic compensation and hiring discrimination.

OFCCP additionally objects to this Request to the extent it seeks documents that were created after March 11, 2016, which was the date the Notice of Violation was issued, because any such documents were created in anticipation of litigation and are protected by the work product doctrine, trial preparation privilege, and/or attorney-client privilege.

OFCCP further objects to the phrase "related to" as overbroad and unduly burdensome.

OFCCP objects to the phrase "methodology" as vague and ambiguous and overbroad and unduly burdensome.

Subject to and without waiving the foregoing objections, OFCCP will produce all non-privileged documents contained in OFCCP's investigative file for Oracle Redwood Shores (OFCCP Case No.: R00192699) (Siniscalco Declaration, Exhibit "B," pp. 5-6).

Discussion

To the extent it has not already done so, Plaintiff must produce, within thirty days of the date of issuance of this Order, all documents in its possession, custody, or control upon which Plaintiff relied to determine, or which support Plaintiff's determination, which employees are "comparable males," as alleged in paragraph 7 of

the First Amended Complaint. To the extent Plaintiff fails to produce such documents, it admits it has no such documents in its possession, custody, or control.

Request No. 7

Defendant's Request No. 7: All DOCUMENTS RELATED to YOUR determination of which "roles" are "similar," as alleged in Paragraph 7 of the Amended Complaint, including but not limited to DOCUMENTS RELATED to the methodology used to make such a determination.

Plaintiff's Response: OFCCP objects to this Request to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government's deliberative process privilege, the governmental privilege for investigative files and techniques, the government's informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP further objects on relevance grounds. Materials reflecting OFCCP's internal deliberations and processes in its investigation are not relevant because they will not show, one way or the other, whether Oracle violated its equal opportunity obligations, including through engaging in systemic compensation and hiring discrimination.

OFCCP additionally objects to this Request to the extent it seeks documents that were created after March 11, 2016, which was the date the Notice of Violation was issued, because any such documents were created in anticipation of litigation and are protected by the work product doctrine, trial preparation privilege, and/or attorney-client privilege.

OFCCP further objects to the phrase "related to" as overbroad and unduly burdensome.

OFCCP objects to the phrase "methodology" as vague and ambiguous and overbroad and unduly burdensome.

Subject to and without waiving the foregoing objections, OFCCP will produce all non-privileged documents contained in OFCCP's investigative file for Oracle Redwood Shores (OFCCP Case No.: R00192699) (Siniscalco Declaration, Exhibit "B," pp. 6-7).

Discussion

Defendant may fairly inquire about the factual basis for this allegation. Accordingly, to the extent it has not already done so, Plaintiff must produce, within thirty days of the date of issuance of this Order, all documents in its possession, custody, or control upon which Plaintiff relied to determine, or which support Plaintiff's determination of, which "roles" are "similar," as alleged in paragraph 7 of the First Amended Complaint. To the extent Plaintiff fails to produce such documents, it admits it has no such documents in its possession, custody, or control.

Request No. 8

Defendant's Request No. 8: All DOCUMENTS RELATED to YOUR "controlling for job title, full-time status, exempt status, global career level, job specialty, estimated prior work experience, and company tenure," as alleged in Paragraph 7 of the Amended Complaint, including but not limited to DOCUMENTS RELATED to the methodology YOU used.

Plaintiff's Response: OFCCP objects to this Request to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government's deliberative process privilege, the governmental privilege for investigative files and techniques, the government's informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP further objects on relevance grounds. Materials reflecting OFCCP's internal deliberations and processes in its investigation are not relevant because they will not show, one way or the other, whether Oracle violated its equal opportunity obligations, including through engaging in systemic compensation and hiring discrimination.

OFCCP additionally objects to this Request to the extent it seeks documents that were created after March 11, 2016, which was the date the Notice of Violation was issued, because any such documents were created in anticipation of litigation and are protected by the work product doctrine, trial preparation privilege, and/or attorney-client privilege.

OFCCP further objects to the phrase "related to" as overbroad and unduly burdensome.

OFCCP objects to the phrase "methodology" as vague and ambiguous and overbroad and unduly burdensome.

Subject to and without waiving the foregoing objections, OFCCP will produce all non-privileged documents contained in OFCCP's investigative file for Oracle Redwood Shores (OFCCP Case No.: R00192699) (Siniscalco Declaration, Exhibit "B," p. 7).

Discussion

Defendant may fairly inquire about the factual basis for this allegation. Accordingly, to the extent it has not already done so, Plaintiff must produce, within thirty days of the date of issuance of this Order, all documents in its possession, custody, or control 1) upon which Plaintiff relied in "controlling for job title, full-time status, exempt status, global career level, job specialty, estimated prior work experience, and company tenure," as alleged in paragraph 7 of the First Amended Complaint; or 2) which support the allegation that Plaintiff controlled for the enumerated factors. To the extent Plaintiff fails to produce such documents, it admits it has no such documents in its possession, custody, or control.

Request No. 9

Defendant's Request: All DOCUMENTS RELATED to the allegation in Paragraph 7 of the Amended Complaint that a standard deviation of -2.71 impacts 133 "female information technology employees." This request includes but is not limited to final and draft DOCUMENTS showing underlying statistical data, methodologies, models and actual computations used to determine the standard deviation, as well as DOCUMENTS showing calculations and/or methodologies different from what is represented in paragraph 7.

Plaintiff's Response: OFCCP objects to this Request to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government's deliberative process privilege, the governmental privilege for investigative files and techniques, the government's informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP further objects on relevance grounds. Materials reflecting OFCCP's internal deliberations and processes in its investigation are not relevant because they will not show, one way or the other, whether Oracle violated its equal opportunity obligations, including through engaging in systemic compensation and hiring discrimination.

OFCCP additionally objects to this Request to the extent it seeks documents that were created after March 11, 2016, which was the date the Notice of Violation was issued, because any such documents were created in anticipation of litigation and are protected by the work product doctrine, trial preparation privilege, and/or attorney-client privilege.

OFCCP further objects to the phrase "related to" as overbroad and unduly burdensome.

OFCCP objects to the phrase "methodologies" as vague and ambiguous and overbroad and unduly burdensome.

Subject to and without waiving the foregoing objections, OFCCP will produce all non-privileged documents contained in OFCCP's investigative file for Oracle Redwood Shores (OFCCP Case No.: R00192699) (Siniscalco Declaration, Exhibit "B," pp. 7-8).

Discussion

To the extent it has not already done so, Plaintiff must produce, within thirty days of the date of issuance of this Order, all documents in its possession, custody, or control upon which Plaintiff relied in concluding "that a standard deviation of -2.71 impacts 133 'female information technology employees' as alleged in paragraph 7 of the First Amended Complaint; or which show Plaintiff's calculation of that standard deviation. To the extent Plaintiff fails to produce such documents, it admits it has no such documents in its possession, custody, or control.

Request No. 10

Defendant's Request: All DOCUMENTS RELATED to the allegation in Paragraph 7 of the Amended Complaint that a standard deviation of -8.41 impacts 1,207 "female product development employees." This request includes but is not limited to final and draft DOCUMENTS showing underlying statistical data, methodologies, models and actual computations used to determine the standard deviation, as well as DOCUMENTS showing calculations and/or methodologies different from what is represented in Paragraph 7.

Plaintiff's Response: OFCCP objects to this Request to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government's deliberative process privilege, the governmental privilege for investigative files and techniques, the government's informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP further objects on relevance grounds. Materials reflecting OFCCP's internal deliberations and processes in its investigation are not relevant because they will not show, one way or the other, whether Oracle violated its equal opportunity obligations, including through engaging in systemic compensation and hiring discrimination.

OFCCP additionally objects to this Request to the extent it seeks documents that were created after March 11, 2016, which was the date the Notice of Violation was issued, because any such documents were created in anticipation of litigation and are protected by the work product doctrine, trial preparation privilege, and/or attorney-client privilege.

OFCCP further objects to the phrase "related to" as overbroad and unduly burdensome.

OFCCP objects to the phrase "methodologies" as vague and ambiguous and overbroad and unduly burdensome.

Subject to and without waiving the foregoing objections, OFCCP will produce all non-privileged documents contained in OFCCP's investigative file for Oracle Redwood Shores (OFCCP Case No.: R00192699) (Siniscalco Declaration, Exhibit "B," pp. 8-9).

Discussion

To the extent it has not already done so, Plaintiff must produce, within thirty days of the date of issuance of this Order, all documents in its possession, custody, or control upon which Plaintiff relied in concluding "that a standard deviation of -8.41 impacts 1,207 'female product development employees' as alleged in paragraph 7 of the First Amended Complaint; or which document Plaintiff's calculation of that standard deviation. To the extent Plaintiff fails to produce such documents, it admits it has no such documents in its possession, custody, or control.

Request No. 11

Defendant's Request: All DOCUMENTS RELATED to the allegation in Paragraph 7 of the Amended Complaint that a standard deviation of -3.67 impacts 47 "female support employees." This request includes but is not limited to both final and draft DOCUMENTS showing underlying statistical data, methodologies, models and actual computations used to determine the standard deviation, as well as DOCUMENTS showing calculations and/or methodologies different from what is represented in Paragraph 7.

Plaintiff's Response: OFCCP objects to this Request to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government's deliberative process privilege, the governmental privilege for investigative files and techniques, the government's informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP further objects on relevance grounds. Materials reflecting OFCCP's internal deliberations and processes in its investigation are not relevant because they will not show, one way or the other, whether Oracle violated its equal opportunity obligations, including through engaging in systemic compensation and hiring discrimination.

OFCCP additionally objects to this Request to the extent it seeks documents that were created after March 11, 2016, which was the date the Notice of Violation was issued, because any such documents were created in anticipation of litigation and are protected by the work product doctrine, trial preparation privilege, and/or attorney-client privilege.

OFCCP further objects to the phrase "related to" as overbroad and unduly burdensome.

OFCCP objects to the phrase "methodologies" as vague and ambiguous and overbroad and unduly burdensome.

Subject to and without waiving the foregoing objections, OFCCP will produce all non-privileged documents contained in OFCCP's investigative file for Oracle Redwood Shores (OFCCP Case No.: R00192699) (Siniscalco Declaration, Exhibit "B," pp. 9-10).

Discussion

To the extent it has not already done so, Plaintiff must produce, within thirty days of the date of issuance of this Order, all documents in its possession, custody, or control upon which Plaintiff relied in concluding "that a standard deviation of -3.67 impacts 47 'female support employees'" as alleged in paragraph 7 of the First Amended Complaint; or which document Plaintiff's calculation of that standard deviation. To the extent Plaintiff fails to produce such documents, it admits it has no such documents in its possession, custody, or control.

Request No. 12

Defendant's Request No. 12: All DOCUMENTS that identify the female employees YOU included in each class listed in the table found in Paragraph 7 of the Amended Complaint.

Plaintiff's Response: OFCCP objects to this Request to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government's deliberative process privilege, the governmental privilege for investigative files and techniques, the government's informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP further objects on relevance grounds. Materials reflecting OFCCP's internal deliberations and processes in its investigation are not relevant because they will not show, one way or the other, whether Oracle violated its equal opportunity obligations, including through engaging in systemic compensation and hiring discrimination.

OFCCP additionally objects to this Request to the extent it seeks documents that were created after March 11, 2016, which was the date the Notice of Violation was issued, because any such documents were created in anticipation of litigation and are protected by the work product doctrine, trial preparation privilege, and/or attorney-client privilege.

OFCCP objects to the phrase "identify" as vague and ambiguous.

Subject to and without waiving the foregoing objections, OFCCP will produce all non-privileged documents contained in OFCCP's investigative file for Oracle Redwood Shores (OFCCP Case No.: R00192699) (Siniscalco Declaration, Exhibit "B," pp. 10-11).

Discussion

Plaintiff surely knows what it means to "identify" a person. To the extent it has not already done so, Plaintiff must produce, within thirty days of the date of issuance of this Order, all documents in its possession, custody, or control identifying the female employees described in the Request. To the extent Plaintiff fails to produce such documents, it admits it has no such documents in its possession, custody, or control.

Request No. 13

Defendant's Request: All DOCUMENTS that identify the "comparable males employed in similar jobs" that YOU used as comparators in reaching the conclusions alleged in Paragraph 7 of the Amended Complaint.

Plaintiff's Response: OFCCP objects to this Request to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government's deliberative process privilege, the governmental privilege for investigative files and techniques, the government's informant privilege, the trial preparation privilege described in Rule 26(b)(3)

of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP further objects on relevance grounds. Materials reflecting OFCCP's internal deliberations and processes in its investigation are not relevant because they will not show, one way or the other, whether Oracle violated its equal opportunity obligations, including through engaging in systemic compensation and hiring discrimination.

OFCCP additionally objects to this Request to the extent it seeks documents that were created after March 11, 2016, which was the date the Notice of Violation was issued, because any such documents were created in anticipation of litigation and are protected by the work product doctrine, trial preparation privilege, and/or attorney-client privilege.

OFCCP objects to the phrase "identify" as vague and ambiguous.

Subject to and without waiving the foregoing objections, OFCCP will produce all non-privileged documents contained in OFCCP's investigative file for Oracle Redwood Shores (OFCCP Case No.: R00192699) (Siniscalco Declaration, Exhibit "B," p. 11).

Discussion

Again, the court is confident Plaintiff knows what it means to "identify" a person. To the extent it has not already done so, Plaintiff must produce, within thirty days of the date of issuance of this Order, all documents in its possession, custody, or control identifying the "comparable males employed in similar jobs" described in the request. To the extent Plaintiff fails to produce such documents, it admits it has no such documents in its possession, custody, or control.

Request No. 14

Defendant's Request: All DOCUMENTS RELATED to the comparisons YOU made between any "female CLASS MEMBERS" and any "comparable males employed in similar roles" as described in Paragraph 7 of the Amended Complaint.

Plaintiff's Response: OFCCP objects to this Request to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government's deliberative process privilege, the governmental privilege for investigative files and techniques, the government's informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP further objects on relevance grounds. Materials reflecting OFCCP's internal deliberations and processes in its investigation are not relevant because they will not show, one way or the other, whether Oracle violated its equal opportunity obligations, including through engaging in systemic compensation and hiring discrimination.

OFCCP additionally objects to this Request to the extent it seeks documents that were created after March 11, 2016, which was the date the Notice of Violation was issued, because any such documents were created in anticipation of litigation and are protected by the work product doctrine, trial preparation privilege, and/or attorney-client privilege.

OFCCP further objects to the phrase “related to” as overbroad and unduly burdensome.

Subject to and without waiving the foregoing objections, OFCCP will produce all non-privileged documents contained in OFCCP’s investigative file for Oracle Redwood Shores (OFCCP Case No.: R00192699) (Siniscalco Declaration, Exhibit “B,” p. 11-12).

Discussion

To the extent it has not already done so, Plaintiff must produce, within thirty days of the date of issuance of this Order, all non-privileged documents in its possession, custody, or control upon which Plaintiff relied in comparing “female CLASS MEMBERS” with “comparable males employed in similar roles,” as set forth in paragraph 7 of the Amended Complaint; or which show the comparisons described in paragraph 7 of the Amended Complaint. To the extent Plaintiff fails to produce such documents, it admits it has no such documents in its possession, custody, or control.

Request No. 15

Defendant’s Request: All CASE FILES RELATED to the allegations described in Paragraph 7 of the Amended Complaint.

Plaintiff’s Response: OFCCP objects to this Request to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government’s deliberative process privilege, the governmental privilege for investigative files and techniques, the government’s informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP further objects on relevance grounds. Materials reflecting OFCCP’s internal deliberations and processes in its investigation are not relevant because they will not show, one way or the other, whether Oracle violated its equal opportunity obligations, including through engaging in systemic compensation and hiring discrimination.

OFCCP additionally objects to this Request to the extent it seeks documents that were created after March 11, 2016, which was the date the Notice of Violation was issued, because any such documents were created in anticipation of litigation and are protected by the work product doctrine, trial preparation privilege, and/or attorney-client privilege.

OFCCP further objects to the phrase “related to” as overbroad and unduly burdensome.

Subject to and without waiving the foregoing objections, OFCCP will produce all non-privileged documents contained in OFCCP's investigative file for Oracle Redwood Shores (OFCCP Case No.: R00192699) (Siniscalco Declaration, Exhibit "B," pp. 12-13).

Discussion

Because Defendant has not given the court the full text of its Requests, the court does not know how Defendant defined the term "CASE FILES." Because the court cannot determine exactly what Defendant has requested, it must conclude, on the record before it, that the request does not describe a category of documents with reasonable particularity. Plaintiff need not produce additional documents in response to this request.

Request No. 16

Defendant's Request: All CASE ANALYSES RELATED to the allegations described in Paragraph 7 of the Amended Complaint.

Plaintiff's Response: OFCCP objects to this Request to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government's deliberative process privilege, the governmental privilege for investigative files and techniques, the government's informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP further objects on relevance grounds. Materials reflecting OFCCP's internal deliberations and processes in its investigation are not relevant because they will not show, one way or the other, whether Oracle violated its equal opportunity obligations, including through engaging in systemic compensation and hiring discrimination.

OFCCP additionally objects to this Request to the extent it seeks documents that were created after March 11, 2016, which was the date the Notice of Violation was issued, because any such documents were created in anticipation of litigation and are protected by the work product doctrine, trial preparation privilege, and/or attorney-client privilege.

OFCCP further objects to the phrase "related to" as overbroad and unduly burdensome.

Subject to and without waiving the foregoing objections, OFCCP will produce all non-privileged documents contained in OFCCP's investigative file for Oracle Redwood Shores (OFCCP Case No.: R00192699) (Siniscalco Declaration, Exhibit "B," p. 13).

Discussion

Again, Defendant appears specifically to have defined the term "CASE ANALYSES" for purposes of its Request, but has not shared that definition with the court. Because the court cannot determine the extent of this request, the court

must conclude, on the record before it, that it does not describe a category of documents with reasonable particularity. Plaintiff need not produce additional documents in response to this request.

Request No. 17

Defendant's Request: All interview notes, summaries and memoranda for each interview YOU conducted that RELATES to the allegations described in Paragraph 7 of the Amended Complaint.

Plaintiff's Response: OFCCP objects to this Request to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government's deliberative process privilege, the governmental privilege for investigative files and techniques, the government's informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP further objects on relevance grounds. Materials reflecting OFCCP's internal deliberations and processes in its investigation are not relevant because they will not show, one way or the other, whether Oracle violated its equal opportunity obligations, including through engaging in systemic compensation and hiring discrimination.

OFCCP additionally objects to this Request to the extent it seeks documents that were created after March 11, 2016, which was the date the Notice of Violation was issued, because any such documents were created in anticipation of litigation and are protected by the work product doctrine, trial preparation privilege, and/or attorney-client privilege.

OFCCP further objects to the phrase "related to" as overbroad and unduly burdensome.

OFCCP further objects to the phrase "summaries" as vague and ambiguous.

Subject to and without waiving the foregoing objections, OFCCP will produce all non-privileged documents contained in OFCCP's investigative file for Oracle Redwood Shores (OFCCP Case No.: R00192699) (Siniscalco Declaration, Exhibit "B," pp. 13-14).

Discussion

Paragraph 7 of the Amended Complaint alleges "As a result of the compliance review, OFCCP found that from at least January 1, 2014, and on information and belief, from 2013 going forward to the present, Oracle discriminated against qualified female employees in its Information Technology, Product Development, and Support lines of business or job functions at Oracle Redwood Shores based upon sex by paying them less than comparable males employed in similar roles. Specifically, OFCCP's analyses showed the following based on 2014 data controlling for job title, full-time status, exempt status, global career level, job specialty, estimated prior work experience, and company tenure." This text appears above a chart defining

three classes of employees: “Female Information Technology Employees,” with 133 members and a standard deviation of -2.71; “Female Product Development Employees,” with 1,207 members and a standard deviation of -8.41; and “Female Support Employees,” with 47 members and a standard deviation of -3.67.

There is a truckload of allegations of fact in Paragraph 7, and this Request asks Plaintiff to produce notes, summaries, and memoranda for any interview it conducted which “RELATES” to any one of them. Defendant has not told the court in its moving papers how it defined “RELATES,” and here Plaintiff objects to it as “overbroad and unduly burdensome” – an objection the court must sustain on the record before it.

Defendant is entitled to discover the factual basis for the allegations in the Amended Complaint, but Defendant is not entitled to discover every interview Plaintiff may have conducted that has anything whatever to do with the allegations of the Amended Complaint. Plaintiff’s work product is protected from disclosure, at least until such time as Plaintiff relies on it to support an allegation of fact, or discloses it to the public. Accordingly, to the extent it has not already done so, Plaintiff must produce interview notes, interview summaries, or other writings which memorialize the content of any interviews upon which Plaintiff relied to support the material factual allegations of Paragraph 7 of the Amended Complaint. Plaintiff must produce such documents within thirty days of the issuance of this Order. To the extent it fails to do so, it admits it has no such documents in its possession, custody, or control.

Request No. 18

Defendant’s Request: All DOCUMENTS RELATED to COMMUNICATIONS between YOU and any THIRD PARTIES, including possible CLASS MEMBERS or their attorneys, that RELATE to the allegations described in Paragraph 7 of the Amended Complaint.

Plaintiff’s Response: OFCCP objects to this Request to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government’s deliberative process privilege, the governmental privilege for investigative files and techniques, the government’s informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP further objects on relevance grounds. Materials reflecting OFCCP’s internal deliberations and processes in its investigation are not relevant because they will not show, one way or the other, whether Oracle violated its equal opportunity obligations, including through engaging in systemic compensation and hiring discrimination.

OFCCP additionally objects to this Request to the extent it seeks documents that were created after March 11, 2016, which was the date the Notice of Violation was issued, because

any such documents were created in anticipation of litigation and are protected by the work product doctrine, trial preparation privilege, and/or attorney-client privilege.

OFCCP further objects to the phrase “communications” as overbroad and unduly burdensome.

OFCCP further objects to the phrase “related to” as overbroad and unduly burdensome.

OFCCP further objects to the entirety of this request as overbroad and unduly burdensome.

Subject to and without waiving the foregoing objections, OFCCP will produce all non-privileged documents contained in OFCCP’s investigative file for Oracle Redwood Shores (OFCCP Case No.: R00192699) (Siniscalco Declaration, Exhibit “B,” pp. 14-15).

Discussion

To the extent Plaintiff has not already done so, it must produce, within thirty days of issuance of this Order, any writings in its possession, custody, or control comprising or memorializing communications with third parties which support the material factual allegations of paragraph 7 of the Amended Complaint. To the extent Plaintiff fails to do so, it admits it has no such documents in its possession, custody, or control.

Request No. 19

Defendant’s Request No. 19: All statistical studies and analyses RELATED to the allegations described in Paragraph 7 of the Amended Complaint, including any that YOU did not adopt or endorse, and any that resulted in calculations different from those presented in Paragraph 7. This request seeks all responsive DOCUMENTS in both final and draft form.

Plaintiff’s Response: OFCCP objects to this Request to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government’s deliberative process privilege, the governmental privilege for investigative files and techniques, the government’s informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP further objects on relevance grounds. Materials reflecting OFCCP’s internal deliberations and processes in its investigation are not relevant because they will not show, one way or the other, whether Oracle violated its equal opportunity obligations, including through engaging in systemic compensation and hiring discrimination.

OFCCP additionally objects to this Request to the extent it seeks documents that were created after March 11, 2016, which was the date the Notice of Violation was issued, because

any such documents were created in anticipation of litigation and are protected by the work product doctrine, trial preparation privilege, and/or attorney-client privilege.

OFCCP further objects to the phrase “related to” as overbroad and unduly burdensome.

OFCCP further objects to the phrases “adopt” and “endorse” as vague and ambiguous.

Subject to and without waiving the foregoing objections, OFCCP will produce all non-privileged documents contained in OFCCP’s investigative file for Oracle Redwood Shores (OFCCP Case No.: R00192699) (Siniscalco Declaration, Exhibit “B,” p. 15).

Discussion

Defendant is entitled To the extent it has not already done so, Plaintiff must produce, within thirty days of the issuance of this Order, all documents in its possession, custody, or control which show statistical, arithmetical, or mathematical calculations supporting the allegations set forth in Paragraph 7 of the Amended Complaint. To the extent Plaintiff fails to produce such documents, it admits it has no such documents in its possession, custody, or control.

Request No. 20

Defendant’s Request No. 20: All DOCUMENTS RELATED to the claim in Paragraph 8 of the Amended Complaint that “Oracle discriminated against qualified African American employees in Product Development roles” at HQCA.

Plaintiff’s Response: OFCCP objects to this Request to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government’s deliberative process privilege, the governmental privilege for investigative files and techniques, the government’s informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP further objects on relevance grounds. Materials reflecting OFCCP’s internal deliberations and processes in its investigation are not relevant because they will not show, one way or the other, whether Oracle violated its equal opportunity obligations, including through engaging in systemic compensation and hiring discrimination.

OFCCP additionally objects to this Request to the extent it seeks documents that were created after March 11, 2016, which was the date the Notice of Violation was issued, because any such documents were created in anticipation of litigation and are protected by the work product doctrine, trial preparation privilege, and/or attorney-client privilege.

OFCCP further objects to the phrase “related to” as overbroad and unduly burdensome.

Subject to and without waiving the foregoing objections, OFCCP will produce all non-privileged documents contained in OFCCP's investigative file for Oracle Redwood Shores (OFCCP Case No.: R00192699) (Siniscalco Declaration, Exhibit "B," pp. 15-16).

Discussion

As discussed above (*see, inter alia*, Paragraph No. 1 on page 2 of this Order), Plaintiff must disclose the factual bases for the allegations it has set forth in the Amended Complaint. To the extent it has not already done so, Plaintiff must produce, within thirty days of the date of issuance of this Order, all non-privileged documents in its possession, custody, or control upon which Plaintiff relied in making the allegation described in the request, OR which support that allegation. To the extent Plaintiff fails to produce such documents, it admits it has no such documents in its possession, custody, or control.

Request No. 21

Defendant's Request No. 21: All DOCUMENTS RELATED to YOUR determination of which employees are "qualified," as alleged in Paragraph 8 of the Amended Complaint, including but not limited to DOCUMENTS RELATED to the methodology used to make such a determination.

Plaintiff's Response: OFCCP objects to this Request to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government's deliberative process privilege, the governmental privilege for investigative files and techniques, the government's informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP further objects on relevance grounds. Materials reflecting OFCCP's internal deliberations and processes in its investigation are not relevant because they will not show, one way or the other, whether Oracle violated its equal opportunity obligations, including through engaging in systemic compensation and hiring discrimination.

OFCCP additionally objects to this Request to the extent it seeks documents that were created after March 11, 2016, which was the date the Notice of Violation was issued, because any such documents were created in anticipation of litigation and are protected by the work product doctrine, trial preparation privilege, and/or attorney-client privilege.

OFCCP further objects to the phrase "related to" as overbroad and unduly burdensome.

OFCCP objects to the phrase "methodology" as vague and ambiguous and overbroad and unduly burdensome.

Subject to and without waiving the foregoing objections, OFCCP will produce all non-privileged documents contained in OFCCP's investigative file for Oracle Redwood Shores (OFCCP Case No.: R00192699) (Siniscalco Declaration, Exhibit "B," pp. 16-17).

Discussion

As discussed above (*see, inter alia*, Paragraph No. 1 on page 2 of this Order), Plaintiff must disclose the factual bases for the allegations it has set forth in the Amended Complaint. To the extent it has not already done so, Plaintiff must produce, within thirty days of the date of issuance of this Order, all documents in its possession, custody, or control upon which Plaintiff relied to determine employees were "qualified," as alleged in Paragraph 8 of the Amended Complaint; or which identify those employees Plaintiff determined were so "qualified." To the extent Plaintiff fails to produce such documents, it admits it has no such documents in its possession, custody, or control.

Request No. 22

Defendant's Request No. 22: All DOCUMENTS RELATED to YOUR determination of which employees are "comparable Whites," as alleged in Paragraph 8 of the Amended Complaint, including but not limited to DOCUMENTS RELATED to the methodology used to make such a determination.

Plaintiff's Response: OFCCP objects to this Request to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government's deliberative process privilege, the governmental privilege for investigative files and techniques, the government's informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP further objects on relevance grounds. Materials reflecting OFCCP's internal deliberations and processes in its investigation are not relevant because they will not show, one way or the other, whether Oracle violated its equal opportunity obligations, including through engaging in systemic compensation and hiring discrimination.

OFCCP additionally objects to this Request to the extent it seeks documents that were created after March 11, 2016, which was the date the Notice of Violation was issued, because any such documents were created in anticipation of litigation and are protected by the work product doctrine, trial preparation privilege, and/or attorney-client privilege.

OFCCP further objects to the phrase "related to" as overbroad and unduly burdensome.

OFCCP objects to the phrase "methodology" as vague and ambiguous and overbroad and unduly burdensome.

Subject to and without waiving the foregoing objections, OFCCP will produce all non-privileged documents contained in OFCCP's investigative file for Oracle Redwood Shores (OFCCP Case No.: R00192699) (Siniscalco Declaration, Exhibit "B," pp. 17-18).

Discussion

As discussed above (*see, inter alia*, Paragraph No. 1 on page 2 of this Order), Plaintiff must disclose the factual bases for the allegations it has set forth in the Amended Complaint. To the extent it has not already done so, Plaintiff must produce, within thirty days of the date of issuance of this Order, all documents in its possession, custody, or control indicating, or upon which Plaintiff relied to determine, which employees were "comparable Whites," as alleged in Paragraph 8 of the Amended Complaint; or which identify the employees Plaintiff concluded were "comparable Whites" as so alleged. To the extent Plaintiff fails to produce such documents, it admits it has no such documents in its possession, custody, or control.

Request No. 23

Defendant's Request No. 23: All DOCUMENTS RELATED to YOUR determination of which "roles" are "similar," as alleged in Paragraph 8 of the Amended Complaint, including but not limited to DOCUMENTS RELATED to the methodology used to make such a determination.

Plaintiff's Response: OFCCP objects to this Request to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government's deliberative process privilege, the governmental privilege for investigative files and techniques, the government's informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP further objects on relevance grounds. Materials reflecting OFCCP's internal deliberations and processes in its investigation are not relevant because they will not show, one way or the other, whether Oracle violated its equal opportunity obligations, including through engaging in systemic compensation and hiring discrimination.

OFCCP additionally objects to this Request to the extent it seeks documents that were created after March 11, 2016, which was the date the Notice of Violation was issued, because any such documents were created in anticipation of litigation and are protected by the work product doctrine, trial preparation privilege, and/or attorney-client privilege.

OFCCP further objects to the phrase "related to" as overbroad and unduly burdensome.

OFCCP objects to the phrase "methodology" as vague and ambiguous and overbroad and unduly burdensome.

Subject to and without waiving the foregoing objections, OFCCP will produce all non-privileged documents contained in OFCCP's investigative file for Oracle Redwood Shores (OFCCP Case No.: R00192699) (Siniscalco Declaration, Exhibit "B," p. 18).

Discussion

As discussed above (*see, inter alia*, Paragraph No. 1 on page 2 of this Order), Plaintiff must disclose the factual bases for the allegations it has set forth in the Amended Complaint. To the extent it has not already done so, Plaintiff must produce, within thirty days of the date of issuance of this Order, all documents in its possession, custody, or control indicating, or upon which Plaintiff relied to determine, which "roles" were "similar," as alleged in Paragraph 8 of the Amended Complaint. To the extent Plaintiff fails to produce such documents, it admits it has no such documents in its possession, custody, or control.

Request No. 24

Defendant's Request No. 24: All DOCUMENTS RELATED to YOUR "controlling for job title, full-time status, exempt status, global career level, job specialty, estimated prior work experience, and company tenure," as alleged in Paragraph 8 of the Amended Complaint, including but not limited to DOCUMENTS RELATED to the methodology YOU used.

Plaintiff's Response: OFCCP objects to this Request to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government's deliberative process privilege, the governmental privilege for investigative files and techniques, the government's informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP further objects on relevance grounds. Materials reflecting OFCCP's internal deliberations and processes in its investigation are not relevant because they will not show, one way or the other, whether Oracle violated its equal opportunity obligations, including through engaging in systemic compensation and hiring discrimination.

OFCCP additionally objects to this Request to the extent it seeks documents that were created after March 11, 2016, which was the date the Notice of Violation was issued, because any such documents were created in anticipation of litigation and are protected by the work product doctrine, trial preparation privilege, and/or attorney-client privilege.

OFCCP further objects to the phrase "related to" as overbroad and unduly burdensome.

OFCCP objects to the phrase "methodology" as vague and ambiguous and overbroad and unduly burdensome.

Subject to and without waiving the foregoing objections, OFCCP will produce all non-privileged documents contained in OFCCP's investigative file for Oracle Redwood Shores (OFCCP Case No.: R00192699) (Siniscalco Declaration, Exhibit "B," pp. 18-19).

Discussion

As discussed above (*see, inter alia*, Paragraph No. 1 on page 2 of this Order), Plaintiff must disclose the factual bases for the allegations it has set forth in the Amended Complaint. To the extent it has not already done so, Plaintiff must produce, within thirty days of the date of issuance of this Order, all documents in its possession, custody, or control upon which Plaintiff relied to control for the enumerated factors, as alleged in Paragraph 8 of the Amended Complaint; or which show how Plaintiff controlled for the enumerated factors. To the extent Plaintiff fails to produce such documents, it admits it has no such documents in its possession, custody, or control.

Request No. 25

Defendant's Request No. 25: All DOCUMENTS RELATED to the allegation in Paragraph 8 of the Amended Complaint that a standard deviation of -2.10 exists. This request includes but is not limited to final and draft DOCUMENTS showing underlying statistical data, methodologies, models and actual computations used to determine the standard deviation, as well as DOCUMENTS showing calculations and/or methodologies different from what is alleged in Paragraph 8.

Plaintiff's Response: OFCCP objects to this Request to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government's deliberative process privilege, the governmental privilege for investigative files and techniques, the government's informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP further objects on relevance grounds. Materials reflecting OFCCP's internal deliberations and processes in its investigation are not relevant because they will not show, one way or the other, whether Oracle violated its equal opportunity obligations, including through engaging in systemic compensation and hiring discrimination.

OFCCP additionally objects to this Request to the extent it seeks documents that were created after March 11, 2016, which was the date the Notice of Violation was issued, because any such documents were created in anticipation of litigation and are protected by the work product doctrine, trial preparation privilege, and/or attorney-client privilege.

OFCCP further objects to the phrase "related to" as overbroad and unduly burdensome.

OFCCP objects to the phrase "methodology" as vague and ambiguous and overbroad and unduly burdensome.

Subject to and without waiving the foregoing objections, OFCCP will produce all non-privileged documents contained in OFCCP's investigative file for Oracle Redwood Shores (OFCCP Case No.: R00192699) (Siniscalco Declaration, Exhibit "B," pp. 19-20).

Discussion

As discussed above (*see, inter alia*, Paragraph No. 1 on page 2 of this Order), Plaintiff must disclose the factual bases for the allegations it has set forth in the Amended Complaint. To the extent it has not already done so, Plaintiff must produce, within thirty days of the date of issuance of this Order, all documents in its possession, custody, or control indicating, or upon which Plaintiff relied to calculate, a standard deviation of -2.10. To the extent Plaintiff fails to produce such documents, it admits it has no such documents in its possession, custody, or control.

Request No. 26

Defendant's Request No. 26: All DOCUMENTS that identify the African Americans that YOU allege are victims of the alleged discrimination described in Paragraph 8 of the Amended Complaint.

Plaintiff's Response: OFCCP objects to this Request to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government's deliberative process privilege, the governmental privilege for investigative files and techniques, the government's informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP further objects on relevance grounds. Materials reflecting OFCCP's internal deliberations and processes in its investigation are not relevant because they will not show, one way or the other, whether Oracle violated its equal opportunity obligations, including through engaging in systemic compensation and hiring discrimination.

OFCCP additionally objects to this Request to the extent it seeks documents that were created after March 11, 2016, which was the date the Notice of Violation was issued, because any such documents were created in anticipation of litigation and are protected by the work product doctrine, trial preparation privilege, and/or attorney-client privilege.

OFCCP further objects to the phrase "identify" as vague and ambiguous.

Subject to and without waiving the foregoing objections, OFCCP will produce all non-privileged documents contained in OFCCP's investigative file for Oracle Redwood Shores (OFCCP Case No.: R00192699) (Siniscalco Declaration, Exhibit "B," pp. 20-21).

Discussion

Again, the court is confident Plaintiff knows what it means to “identify” a person. And, as discussed above (*see, inter alia*, Paragraph No. 1 on page 2 of this Order), Plaintiff must disclose the factual bases for the allegations it has set forth in the Amended Complaint. To the extent it has not already done so, Plaintiff must produce, within thirty days of the date of issuance of this Order, all documents in its possession, custody, or control identifying the persons described in the Request. To the extent Plaintiff fails to produce such documents, it admits it has no such documents in its possession, custody, or control.

Request No. 27

Defendant’s Request No. 27: All DOCUMENTS that identify the “comparable Whites employed in similar jobs” that YOU used as comparators in reaching the conclusions alleged in Paragraph 8 of the Amended Complaint.

Plaintiff’s Response: OFCCP objects to this Request to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government’s deliberative process privilege, the governmental privilege for investigative files and techniques, the government’s informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP further objects on relevance grounds. Materials reflecting OFCCP’s internal deliberations and processes in its investigation are not relevant because they will not show, one way or the other, whether Oracle violated its equal opportunity obligations, including through engaging in systemic compensation and hiring discrimination.

OFCCP additionally objects to this Request to the extent it seeks documents that were created after March 11, 2016, which was the date the Notice of Violation was issued, because any such documents were created in anticipation of litigation and are protected by the work product doctrine, trial preparation privilege, and/or attorney-client privilege.

OFCCP further objects to the phrase “identify” as vague and ambiguous.

Subject to and without waiving the foregoing objections, OFCCP will produce all non-privileged documents contained in OFCCP’s investigative file for Oracle Redwood Shores (OFCCP Case No.: R00192699) (Siniscalco Declaration, Exhibit “B,” p. 21).

Discussion

Once again, the court is confident Plaintiff knows what it means to “identify” a person. And once again, as discussed above (*see, inter alia*, Paragraph No. 1 on page 2 of this Order), Plaintiff must disclose the factual bases for the allegations it has set forth in the Amended Complaint. To the extent it has not already done so, Plaintiff must produce, within thirty days of the date of issuance of this Order, all documents in its possession, custody, or control identifying the persons described in

the Request. To the extent Plaintiff fails to produce such documents, it admits it has no such documents in its possession, custody, or control.

Request No. 28

Defendant's Request No. 28: All DOCUMENTS RELATED to the comparisons YOU made between any "African Americans" and any "comparable Whites employed in similar roles" as alleged in Paragraph 8 of the Amended Complaint.

Plaintiff's Response: OFCCP objects to this Request to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government's deliberative process privilege, the governmental privilege for investigative files and techniques, the government's informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP further objects on relevance grounds. Materials reflecting OFCCP's internal deliberations and processes in its investigation are not relevant because they will not show, one way or the other, whether Oracle violated its equal opportunity obligations, including through engaging in systemic compensation and hiring discrimination.

OFCCP additionally objects to this Request to the extent it seeks documents that were created after March 11, 2016, which was the date the Notice of Violation was issued, because any such documents were created in anticipation of litigation and are protected by the work product doctrine, trial preparation privilege, and/or attorney-client privilege.

OFCCP further objects to the phrase "related to" as overbroad and unduly burdensome.

Subject to and without waiving the foregoing objections, OFCCP will produce all non-privileged documents contained in OFCCP's investigative file for Oracle Redwood Shores (OFCCP Case No.: R00192699) (Siniscalco Declaration, Exhibit "B," pp. 21-22).

Discussion

As discussed above (*see, inter alia*, Paragraph No. 1 on page 2 of this Order), Plaintiff must disclose the factual bases for the allegations it has set forth in the Amended Complaint. To the extent it has not already done so, Plaintiff must produce, within thirty days of the date of issuance of this Order, all documents in its possession, custody, or control comparing, or upon which Plaintiff relied in comparing, "African Americans" with "comparable Whites employed in similar roles," as set forth in paragraph 8 of the Amended Complaint. To the extent Plaintiff fails to produce such documents, it admits it has no such documents in its possession, custody, or control.

Request No. 29

Defendant's Request No. 29: All CASE FILES RELATED to the allegations of Paragraph 8 of the Amended Complaint.

Plaintiff's Response: OFCCP objects to this Request to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government's deliberative process privilege, the governmental privilege for investigative files and techniques, the government's informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP further objects on relevance grounds. Materials reflecting OFCCP's internal deliberations and processes in its investigation are not relevant because they will not show, one way or the other, whether Oracle violated its equal opportunity obligations, including through engaging in systemic compensation and hiring discrimination.

OFCCP additionally objects to this Request to the extent it seeks documents that were created after March 11, 2016, which was the date the Notice of Violation was issued, because any such documents were created in anticipation of litigation and are protected by the work product doctrine, trial preparation privilege, and/or attorney-client privilege.

OFCCP further objects to the phrase "related to" as overbroad and unduly burdensome.

Subject to and without waiving the foregoing objections, OFCCP will produce all non-privileged documents contained in OFCCP's investigative file for Oracle Redwood Shores (OFCCP Case No.: R00192699) (Siniscalco Declaration, Exhibit "B," pp. 22-23).

Discussion

Because Defendant has not given the court the full text of its Requests, the court does not know how Defendant defined the term "CASE FILES." Because the court cannot determine exactly what Defendant has requested, the court must conclude, on the record before it, that the request does not describe a category of documents with reasonable particularity. Plaintiff need not produce additional documents in response to this Request.

Request No. 30

Defendant's Request No. 30: All CASE ANALYSES RELATED to the allegations of Paragraph 8 of the Amended Complaint.

Plaintiff's Response: OFCCP objects to this Request to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government's deliberative process privilege, the governmental privilege for investigative files and techniques, the government's informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP further objects on relevance grounds. Materials reflecting OFCCP's internal deliberations and processes in its investigation are not relevant because they will not show, one way or the other, whether Oracle violated its equal opportunity obligations, including through engaging in systemic compensation and hiring discrimination.

OFCCP additionally objects to this Request to the extent it seeks documents that were created after March 11, 2016, which was the date the Notice of Violation was issued, because any such documents were created in anticipation of litigation and are protected by the work product doctrine, trial preparation privilege, and/or attorney-client privilege.

OFCCP further objects to the phrase "related to" as overbroad and unduly burdensome.

Subject to and without waiving the foregoing objections, OFCCP will produce all non-privileged documents contained in OFCCP's investigative file for Oracle Redwood Shores (OFCCP Case No.: R00192699) (Siniscalco Declaration, Exhibit "B," p. 23).

Discussion

Again, Defendant appears specifically to have defined the term "CASE ANALYSES" for purposes of its Request, but has not shared that definition with the court. On the record before it, the court must conclude this request does not describe a category of documents with reasonable particularity. Plaintiff need not produce additional documents in response to this request.

Request No. 31

Defendant's Request No. 31: All interview notes, summaries and memoranda for each interview YOU conducted that RELATES to the allegations of Paragraph 8 of the Amended Complaint.

Plaintiff's Response: OFCCP objects to this Request to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government's deliberative process privilege, the governmental privilege for investigative files and techniques, the government's informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP further objects on relevance grounds. Materials reflecting OFCCP's internal deliberations and processes in its investigation are not relevant because they will not show, one way or the other, whether Oracle violated its equal opportunity obligations, including through engaging in systemic compensation and hiring discrimination.

OFCCP additionally objects to this Request to the extent it seeks documents that were created after March 11, 2016, which was the date the Notice of Violation was issued, because any such documents were created in anticipation of litigation and are protected by the work product doctrine, trial preparation privilege, and/or attorney-client privilege.

OFCCP further objects to the phrase “relates to” as overbroad and unduly burdensome.

OFCCP further objects to the phrase “summaries” as vague and ambiguous.

Subject to and without waiving the foregoing objections, OFCCP will produce all non-privileged documents contained in OFCCP’s investigative file for Oracle Redwood Shores (OFCCP Case No.: R00192699) (Siniscalco Declaration, Exhibit “B,” pp. 23-24).

Discussion

The court has no way of knowing what Defendant means by “RELATES to,” a term which it appears specially to have defined. Nevertheless, to the extent it has not already done so, Plaintiff must produce, within thirty days of issuance of this Order, interview notes, interview summaries, or other writings which memorialize the content of any interviews which support the material factual allegations of Paragraph 8 of the Amended Complaint. While Defendant is entitled to know the substance of such interviews, it is not entitled to discover Plaintiff’s counsel’s thoughts or impressions. Thus, to comply with this Order, Plaintiff need disclose only the substance of the interviews. To the extent Plaintiff fails to produce documents setting forth the substance of such interviews, it admits it has no such documents in its possession, custody, or control.

Request No. 32

Defendant’s Request No. 32: All DOCUMENTS RELATED to COMMUNICATIONS between YOU and any THIRD PARTIES, including possible CLASS MEMBERS or their attorneys, that RELATE to the allegations described in Paragraph 8 of the Amended Complaint.

Plaintiff’s Response: OFCCP objects to this Request to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government’s deliberative process privilege, the governmental privilege for investigative files and techniques, the government’s informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP further objects on relevance grounds. Materials reflecting OFCCP’s internal deliberations and processes in its investigation are not relevant because they will not show, one way or the other, whether Oracle violated its equal opportunity obligations, including through engaging in systemic compensation and hiring discrimination.

OFCCP additionally objects to this Request to the extent it seeks documents that were created after March 11, 2016, which was the date the Notice of Violation was issued, because any such documents were created in anticipation of litigation and are protected by the work product doctrine, trial preparation privilege, and/or attorney-client privilege.

OFCCP further objects to the phrase “communications” as overbroad and unduly burdensome.

OFCCP further objects to the phrase “related to” as overbroad and unduly burdensome.

OFCCP further objects to the entirety of this request as overbroad and unduly burdensome.

Subject to and without waiving the foregoing objections, OFCCP will produce all non-privileged documents contained in OFCCP’s investigative file for Oracle Redwood Shores (OFCCP Case No.: R00192699) (Siniscalco Declaration, Exhibit “B,” pp. 24-25).

Discussion

As discussed above (*see, inter alia*, Paragraph No. 1 on page 2 of this Order), Plaintiff must disclose the factual bases for the allegations it has set forth in the Amended Complaint. To the extent Plaintiff has not already done so, it must produce, within thirty days of issuance of this Order, any writings in its possession, custody, or control comprising or memorializing communications with third parties which support the material factual allegations of paragraph 8 of the Amended Complaint. Plaintiff need not disclose attorney work product, including, but not limited to, its counsel’s thoughts or impressions regarding such communications. To the extent Plaintiff fails produce documents setting forth the substance of such communications, it admits it has no such documents in its possession, custody, or control.

Request No. 33

Defendant’s Request No. 33: All statistical studies and analyses RELATED to the allegations described in Paragraph 8 of the Amended Complaint, including any that YOU did not adopt or endorse, and any that resulted in calculations different from those alleged. This request seeks all responsive DOCUMENTS in both final and draft form.

Plaintiff’s Response: OFCCP objects to this Request to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government’s deliberative process privilege, the governmental privilege for investigative files and techniques, the government’s informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP further objects on relevance grounds. Materials reflecting OFCCP’s internal deliberations and processes in its investigation are not relevant because they will not show, one way or the other, whether Oracle violated its equal opportunity obligations, including through engaging in systemic compensation and hiring discrimination.

OFCCP additionally objects to this Request to the extent it seeks documents that were created after March 11, 2016, which was the date the Notice of Violation was issued, because any such documents were created in anticipation of litigation and are protected by the work product doctrine, trial preparation privilege, and/or attorney-client privilege.

OFCCP further objects to the phrase “related to” as overbroad and unduly burdensome.

OFCCP further objects to the phrases “adopt” and “endorse” as vague and ambiguous.

Subject to and without waiving the foregoing objections, OFCCP will produce all non-privileged documents contained in OFCCP’s investigative file for Oracle Redwood Shores (OFCCP Case No.: R00192699) (Siniscalco Declaration, Exhibit “B,” p. 15).

Discussion

Defendant may properly inquire about, and seek production of documents setting forth, the factual basis for any allegations in the Amended Complaint, but it is not entitled to attorney work product upon which Plaintiff has not relied to support any allegation. Accordingly, to the extent it has not already done so, within thirty days of the issuance of this Order, Plaintiff must produce all documents in its possession, custody, or control which show statistical, arithmetical, or mathematical calculations supporting the allegations set forth in Paragraph 8 of the Amended Complaint. To the extent Plaintiff fails to produce such documents, it admits it has no such documents in its possession, custody, or control.

Request No. 34

Defendant’s Request No. 34: All DOCUMENTS RELATED to the claim in Paragraph 9 of the Amended Complaint that “Oracle discriminated against qualified Asian employees in Product Development roles” at HQCA.

Plaintiff’s Response: OFCCP objects to this Request to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government’s deliberative process privilege, the governmental privilege for investigative files and techniques, the government’s informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP further objects on relevance grounds. Materials reflecting OFCCP’s internal deliberations and processes in its investigation are not relevant because they will not show, one way or the other, whether Oracle violated its equal opportunity obligations, including through engaging in systemic compensation and hiring discrimination.

OFCCP additionally objects to this Request to the extent it seeks documents that were created after March 11, 2016, which was the date the Notice of Violation was issued, because

any such documents were created in anticipation of litigation and are protected by the work product doctrine, trial preparation privilege, and/or attorney-client privilege.

OFCCP further objects to the phrase “related to” as overbroad and unduly burdensome.

Subject to and without waiving the foregoing objections, OFCCP will produce all non-privileged documents contained in OFCCP’s investigative file for Oracle Redwood Shores (OFCCP Case No.: R00192699) (Siniscalco Declaration, Exhibit “B,” pp. 25-26).

Discussion

As discussed above (*see, inter alia*, Paragraph No. 1 on page 2 of this Order), Plaintiff must disclose the factual bases for the allegations it has set forth in the Amended Complaint. To the extent it has not already done so, Plaintiff must produce, within thirty days of the date of issuance of this Order, all documents in its possession, custody, or control supporting, or upon which Plaintiff relied in making, the allegation described in the request. To the extent Plaintiff fails to produce such documents, it admits it has no such documents in its possession, custody, or control.

Request No. 35

Defendant’s Request No. 35: All DOCUMENTS RELATED to YOUR determination of which employees are “qualified,” as alleged in Paragraph 9 of the Amended Complaint, including but not limited to DOCUMENTS RELATED to the methodology used to make such a determination.

Plaintiff’s Response: OFCCP objects to this Request to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government’s deliberative process privilege, the governmental privilege for investigative files and techniques, the government’s informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP further objects on relevance grounds. Materials reflecting OFCCP’s internal deliberations and processes in its investigation are not relevant because they will not show, one way or the other, whether Oracle violated its equal opportunity obligations, including through engaging in systemic compensation and hiring discrimination.

OFCCP additionally objects to this Request to the extent it seeks documents that were created after March 11, 2016, which was the date the Notice of Violation was issued, because any such documents were created in anticipation of litigation and are protected by the work product doctrine, trial preparation privilege, and/or attorney-client privilege.

OFCCP further objects to the phrase “related to” as overbroad and unduly burdensome.

OFCCP objects to the phrase “methodology” as vague and ambiguous and overbroad and unduly burdensome.

Subject to and without waiving the foregoing objections, OFCCP will produce all non-privileged documents contained in OFCCP’s investigative file for Oracle Redwood Shores (OFCCP Case No.: R00192699) (Siniscalco Declaration, Exhibit “B,” pp. 26-27).

Discussion

Without the full text of the request, including the introductory definitions which Defendant did not provide, the court cannot determine the scope of this request as phrased. But Defendant may properly inquire about the factual basis for this allegation. Accordingly, to the extent it has not already done so, Plaintiff must produce, within thirty days of the date of issuance of this Order, all documents in its possession, custody, or control indicating, or upon which Plaintiff relied to determine, that employees were “qualified,” as alleged in Paragraph 9 of the Amended Complaint. To the extent Plaintiff fails to produce such documents, it admits it has no such documents in its possession, custody, or control.

Request No. 36

Defendant’s Request No. 36: All DOCUMENTS RELATED to YOUR determination of which employees are “comparable Whites,” as alleged in Paragraph 8 of the Amended Complaint, including but not limited to DOCUMENTS RELATED to the methodology used to make such a determination.

Plaintiff’s Response: OFCCP objects to this Request to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government’s deliberative process privilege, the governmental privilege for investigative files and techniques, the government’s informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP further objects on relevance grounds. Materials reflecting OFCCP’s internal deliberations and processes in its investigation are not relevant because they will not show, one way or the other, whether Oracle violated its equal opportunity obligations, including through engaging in systemic compensation and hiring discrimination.

OFCCP additionally objects to this Request to the extent it seeks documents that were created after March 11, 2016, which was the date the Notice of Violation was issued, because any such documents were created in anticipation of litigation and are protected by the work product doctrine, trial preparation privilege, and/or attorney-client privilege.

OFCCP further objects to the phrase “related to” as overbroad and unduly burdensome.

OFCCP objects to the phrase “methodology” as vague and ambiguous and overbroad and unduly burdensome.

Subject to and without waiving the foregoing objections, OFCCP will produce all non-privileged documents contained in OFCCP’s investigative file for Oracle Redwood Shores (OFCCP Case No.: R00192699) (Siniscalco Declaration, Exhibit “B,” pp. 27-28).

Discussion

As discussed above (*see, inter alia*, Paragraph No. 1 on page 2 of this Order), Plaintiff must disclose the factual bases for the allegations it has set forth in the Amended Complaint. To the extent it has not already done so, Plaintiff must produce, within thirty days of the date of issuance of this Order, all documents in its possession, custody, or control indicating, or upon which Plaintiff relied to determine, which employees were “comparable Whites,” as alleged in Paragraph 9 of the Amended Complaint. To the extent Plaintiff fails to produce such documents, it admits it has no such documents in its possession, custody, or control.

Request No. 37

Defendant’s Request No. 37: All DOCUMENTS RELATED to YOUR determination of which “roles” are “similar,” as alleged in Paragraph 9 of the Amended Complaint, including but not limited to DOCUMENTS RELATED to the methodology used to make such a determination.

Plaintiff’s Response: OFCCP objects to this Request to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government’s deliberative process privilege, the governmental privilege for investigative files and techniques, the government’s informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP further objects on relevance grounds. Materials reflecting OFCCP’s internal deliberations and processes in its investigation are not relevant because they will not show, one way or the other, whether Oracle violated its equal opportunity obligations, including through engaging in systemic compensation and hiring discrimination.

OFCCP additionally objects to this Request to the extent it seeks documents that were created after March 11, 2016, which was the date the Notice of Violation was issued, because any such documents were created in anticipation of litigation and are protected by the work product doctrine, trial preparation privilege, and/or attorney-client privilege.

OFCCP further objects to the phrase “related to” as overbroad and unduly burdensome.

OFCCP objects to the phrase “methodology” as vague and ambiguous and overbroad and unduly burdensome.

Subject to and without waiving the foregoing objections, OFCCP will produce all non-privileged documents contained in OFCCP's investigative file for Oracle Redwood Shores (OFCCP Case No.: R00192699) (Siniscalco Declaration, Exhibit "B," p. 28).

Discussion

Again, Defendant is not entitled to discover each and every analysis Plaintiff may have made of facts relevant to this litigation. But Defendant is entitled to know the factual bases for the allegations in the Amended Complaint. Thus, to the extent it has not already done so, Plaintiff must produce, within thirty days of the date of issuance of this Order, all documents in its possession, custody, or control indicating, or upon which Plaintiff relied to determine, which "roles" were "similar," as alleged in Paragraph 9 of the Amended Complaint. To the extent Plaintiff fails to produce such documents, it admits it has no such documents in its possession, custody, or control.

Request No. 38

Defendant's Request No. 38: All DOCUMENTS RELATED to YOUR "controlling for job title, full-time status, exempt status, global career level, job specialty, estimated prior work experience, and company tenure," as alleged in Paragraph 9 of the Amended Complaint, including but not limited to DOCUMENTS RELATED to the methodology YOU used.

Plaintiff's Response: OFCCP objects to this Request to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government's deliberative process privilege, the governmental privilege for investigative files and techniques, the government's informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP further objects on relevance grounds. Materials reflecting OFCCP's internal deliberations and processes in its investigation are not relevant because they will not show, one way or the other, whether Oracle violated its equal opportunity obligations, including through engaging in systemic compensation and hiring discrimination.

OFCCP additionally objects to this Request to the extent it seeks documents that were created after March 11, 2016, which was the date the Notice of Violation was issued, because any such documents were created in anticipation of litigation and are protected by the work product doctrine, trial preparation privilege, and/or attorney-client privilege.

OFCCP further objects to the phrase "related to" as overbroad and unduly burdensome.

OFCCP objects to the phrase "methodology" as vague and ambiguous and overbroad and unduly burdensome.

Subject to and without waiving the foregoing objections, OFCCP will produce all non-privileged documents contained in OFCCP's investigative file for Oracle Redwood Shores (OFCCP Case No.: R00192699) (Siniscalco Declaration, Exhibit "B," pp. 28-29).

Discussion

As discussed above (*see, inter alia*, Paragraph No. 1 on page 2 of this Order), Plaintiff must disclose the factual bases for the allegations it has set forth in the Amended Complaint. To the extent it has not already done so, Plaintiff must produce, within thirty days of the date of issuance of this Order, all documents in its possession, custody, or control upon which Plaintiff relied to control for the enumerated factors, as alleged in Paragraph 9 of the Amended Complaint; or which show how Plaintiff controlled for the enumerated factors. To the extent Plaintiff fails to produce such documents, it admits it has no such documents in its possession, custody, or control.

Request No. 39

Defendant's Request No. 39: All DOCUMENTS RELATED to the allegation in Paragraph 9 of the Amended Complaint that a standard deviation of -6.99 exists. This request includes but is not limited to final and draft DOCUMENTS showing underlying statistical data, methodologies, models and actual computations used to determine the standard deviation, as well as DOCUMENTS showing calculations and/or methodologies different from what is alleged in Paragraph 8.

Plaintiff's Response: OFCCP objects to this Request to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government's deliberative process privilege, the governmental privilege for investigative files and techniques, the government's informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP further objects on relevance grounds. Materials reflecting OFCCP's internal deliberations and processes in its investigation are not relevant because they will not show, one way or the other, whether Oracle violated its equal opportunity obligations, including through engaging in systemic compensation and hiring discrimination.

OFCCP additionally objects to this Request to the extent it seeks documents that were created after March 11, 2016, which was the date the Notice of Violation was issued, because any such documents were created in anticipation of litigation and are protected by the work product doctrine, trial preparation privilege, and/or attorney-client privilege.

OFCCP further objects to the phrase "related to" as overbroad and unduly burdensome.

OFCCP objects to the phrase "methodology" as vague and ambiguous and overbroad and unduly burdensome.

Subject to and without waiving the foregoing objections, OFCCP will produce all non-privileged documents contained in OFCCP's investigative file for Oracle Redwood Shores (OFCCP Case No.: R00192699) (Siniscalco Declaration, Exhibit "B," pp. 29-30).

Discussion

As discussed above (*see, inter alia*, Paragraph No. 1 on page 2 of this Order), Plaintiff must disclose the factual bases for the allegations it has set forth in the Amended Complaint. To the extent it has not already done so, Plaintiff must produce, within thirty days of the date of issuance of this Order, all documents in its possession, custody, or control upon which Plaintiff relied to calculate, or which support Plaintiff's calculation of, a standard deviation of -6.99. To the extent Plaintiff fails to produce such documents, it admits it has no such documents in its possession, custody, or control.

Request No. 40

Defendant's Request No. 40: All DOCUMENTS that identify the Asians that YOU allege are victims of the alleged discrimination described in Paragraph 8 of the Amended Complaint.

Plaintiff's Response: OFCCP objects to this Request to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government's deliberative process privilege, the governmental privilege for investigative files and techniques, the government's informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP further objects on relevance grounds. Materials reflecting OFCCP's internal deliberations and processes in its investigation are not relevant because they will not show, one way or the other, whether Oracle violated its equal opportunity obligations, including through engaging in systemic compensation and hiring discrimination.

OFCCP additionally objects to this Request to the extent it seeks documents that were created after March 11, 2016, which was the date the Notice of Violation was issued, because any such documents were created in anticipation of litigation and are protected by the work product doctrine, trial preparation privilege, and/or attorney-client privilege.

OFCCP further objects to the phrase "identify" as vague and ambiguous.

Subject to and without waiving the foregoing objections, OFCCP will produce all non-privileged documents contained in OFCCP's investigative file for Oracle Redwood Shores (OFCCP Case No.: R00192699) (Siniscalco Declaration, Exhibit "B," pp. 30-31).

Discussion

Paragraph 8 of the Amended Complaint does not allege discrimination against Asians, though the allegation appears elsewhere in the Amended Complaint. And as discussed above (*see, inter alia*, Paragraph No. 1 on page 2 of this Order), Plaintiff must disclose the factual bases for the allegations it has set forth in the Amended Complaint. Plaintiff accordingly must produce, within thirty days of issuance of this Order, all documents in its possession, custody, or control identifying Asians whom Plaintiff contends are victims of discrimination by Defendant. To the extent it fails to do so, Plaintiff admits it has no such documents in its possession, custody, or control.

Request No. 41

Defendant's Request No. 41: All DOCUMENTS RELATED to YOUR determination of which employees are "comparable Whites," as alleged in Paragraph 9 of the Amended Complaint, including but not limited to DOCUMENTS RELATED to the methodology used to make such a determination.

Plaintiff's Response: OFCCP objects to this Request to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government's deliberative process privilege, the governmental privilege for investigative files and techniques, the government's informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP further objects on relevance grounds. Materials reflecting OFCCP's internal deliberations and processes in its investigation are not relevant because they will not show, one way or the other, whether Oracle violated its equal opportunity obligations, including through engaging in systemic compensation and hiring discrimination.

OFCCP additionally objects to this Request to the extent it seeks documents that were created after March 11, 2016, which was the date the Notice of Violation was issued, because any such documents were created in anticipation of litigation and are protected by the work product doctrine, trial preparation privilege, and/or attorney-client privilege.

OFCCP further objects to the phrase "identify" as vague and ambiguous.

Subject to and without waiving the foregoing objections, OFCCP will produce all non-privileged documents contained in OFCCP's investigative file for Oracle Redwood Shores (OFCCP Case No.: R00192699) (Siniscalco Declaration, Exhibit "B," p. 31).

Discussion

As discussed above (*see, inter alia*, Paragraph No. 1 on page 2 of this Order), Plaintiff must disclose the factual bases for the allegations it has set forth in the Amended Complaint. To the extent it has not already done so, Plaintiff must produce, within thirty days of the date of issuance of this Order, all documents in its

possession, custody, or control indicating, or upon which Plaintiff relied to determine, which employees were “comparable Whites,” as alleged in Paragraph 9 of the Amended Complaint. To the extent Plaintiff fails to produce such documents, it admits it has no such documents in its possession, custody, or control.

Request No. 42

Defendant’s Request No. 42: All DOCUMENTS RELATED to the comparisons YOU made between any “Asians” and any “comparable Whites employed in similar roles: as alleged in Paragraph 9 of the Amended Complaint.

Plaintiff’s Response: OFCCP objects to this Request to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government’s deliberative process privilege, the governmental privilege for investigative files and techniques, the government’s informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP further objects on relevance grounds. Materials reflecting OFCCP’s internal deliberations and processes in its investigation are not relevant because they will not show, one way or the other, whether Oracle violated its equal opportunity obligations, including through engaging in systemic compensation and hiring discrimination.

OFCCP additionally objects to this Request to the extent it seeks documents that were created after March 11, 2016, which was the date the Notice of Violation was issued, because any such documents were created in anticipation of litigation and are protected by the work product doctrine, trial preparation privilege, and/or attorney-client privilege.

OFCCP further objects to the phrase “related to” as overbroad and unduly burdensome.

Subject to and without waiving the foregoing objections, OFCCP will produce all non-privileged documents contained in OFCCP’s investigative file for Oracle Redwood Shores (OFCCP Case No.: R00192699) (Siniscalco Declaration, Exhibit “B,” pp. 31-32).

Discussion

As discussed above (*see, inter alia*, Paragraph No. 1 on page 2 of this Order), Plaintiff must disclose the factual bases for the allegations it has set forth in the Amended Complaint. To the extent it has not already done so, Plaintiff must produce, within thirty days of the date of issuance of this Order, all documents in its possession, custody, or control upon which Plaintiff relied in comparing “Asians” with “comparable Whites employed in similar roles,” as set forth in paragraph 9 of the Amended Complaint; or which show any such comparisons Plaintiff made as described in paragraph 9. To the extent Plaintiff fails to produce such documents, it admits it has no such documents in its possession, custody, or control.

Request No. 43

Defendant's Request No. 43: All CASE FILES RELATED to the allegations described in Paragraph 9 of the Amended Complaint.

Plaintiff's Response: OFCCP objects to this Request to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government's deliberative process privilege, the governmental privilege for investigative files and techniques, the government's informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP further objects on relevance grounds. Materials reflecting OFCCP's internal deliberations and processes in its investigation are not relevant because they will not show, one way or the other, whether Oracle violated its equal opportunity obligations, including through engaging in systemic compensation and hiring discrimination.

OFCCP additionally objects to this Request to the extent it seeks documents that were created after March 11, 2016, which was the date the Notice of Violation was issued, because any such documents were created in anticipation of litigation and are protected by the work product doctrine, trial preparation privilege, and/or attorney-client privilege.

OFCCP further objects to the phrase "related to" as overbroad and unduly burdensome.

Subject to and without waiving the foregoing objections, OFCCP will produce all non-privileged documents contained in OFCCP's investigative file for Oracle Redwood Shores (OFCCP Case No.: R00192699) (Siniscalco Declaration, Exhibit "B," pp. 32-33).

Discussion

Because Defendant has not given the court the full text of its Requests, the court does not know how Defendant defined the term "CASE FILES." Because the court cannot determine exactly what Defendant has requested, it must conclude the request does not describe a category of documents with reasonable particularity. Plaintiff need not produce additional documents in response to this Request.

Request No. 44

Defendant's Request No. 44: All CASE ANALYSES RELATED to the allegations of Paragraph 9 of the Amended Complaint.

Plaintiff's Response: OFCCP objects to this Request to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government's deliberative process privilege, the governmental privilege for investigative files and techniques, the government's informant privilege, the trial preparation privilege described in Rule 26(b)(3)

of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP further objects on relevance grounds. Materials reflecting OFCCP's internal deliberations and processes in its investigation are not relevant because they will not show, one way or the other, whether Oracle violated its equal opportunity obligations, including through engaging in systemic compensation and hiring discrimination.

OFCCP additionally objects to this Request to the extent it seeks documents that were created after March 11, 2016, which was the date the Notice of Violation was issued, because any such documents were created in anticipation of litigation and are protected by the work product doctrine, trial preparation privilege, and/or attorney-client privilege.

OFCCP further objects to the phrase "related to" as overbroad and unduly burdensome.

Subject to and without waiving the foregoing objections, OFCCP will produce all non-privileged documents contained in OFCCP's investigative file for Oracle Redwood Shores (OFCCP Case No.: R00192699) (Siniscalco Declaration, Exhibit "B," p. 23).

Discussion

Again, Defendant appears specifically to have defined the term "CASE ANALYSES" for purposes of its Request, but has not shared that definition with the court. Additionally, on the limited record before it, the court must conclude this request does not describe a category of documents with reasonable particularity. Plaintiff need not produce additional documents in response to this request.

Request No. 45

Defendant's Request No. 45: All interview notes, summaries and memoranda for each interview YOU conducted that RELATE to the allegations described in Paragraph 9 of the Amended Complaint.

Plaintiff's Response: OFCCP objects to this Request to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government's deliberative process privilege, the governmental privilege for investigative files and techniques, the government's informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP further objects on relevance grounds. Materials reflecting OFCCP's internal deliberations and processes in its investigation are not relevant because they will not show, one way or the other, whether Oracle violated its equal opportunity obligations, including through engaging in systemic compensation and hiring discrimination.

OFCCP additionally objects to this Request to the extent it seeks documents that were created after March 11, 2016, which was the date the Notice of Violation was issued, because any such documents were created in anticipation of litigation and are protected by the work product doctrine, trial preparation privilege, and/or attorney-client privilege.

OFCCP further objects to the phrase “relate to” as overbroad and unduly burdensome.

OFCCP further objects to the phrase “summaries” as vague and ambiguous.

Subject to and without waiving the foregoing objections, OFCCP will produce all non-privileged documents contained in OFCCP’s investigative file for Oracle Redwood Shores (OFCCP Case No.: R00192699) (Siniscalco Declaration, Exhibit “B,” pp. 33-34).

Discussion

As discussed above (*see, inter alia*, Paragraph No. 1 on page 2 of this Order), Plaintiff must disclose the factual bases for the allegations it has set forth in the Amended Complaint. To the extent it has not already done so, Plaintiff must produce interview notes, interview summaries, or other writings which memorialize the content of any interviews which support the material factual allegations of Paragraph 9 of the Amended Complaint (exclusive of attorney work product, such as Plaintiff’s counsel’s thoughts, impressions, or analyses of the content of such interviews). Plaintiff must produce such documents within thirty days of the issuance of this Order. To the extent it fails to do so, it admits it has no such documents in its possession, custody, or control.

Request No. 46

Defendant’s Request No. 46: All DOCUMENTS RELATED to COMMUNICATIONS between YOU and any THIRD PARTIES, including possible CLASS MEMBERS or their attorneys, that RELATE to the allegations described in Paragraph 9 of the Amended Complaint.

Plaintiff’s Response: OFCCP objects to this Request to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government’s deliberative process privilege, the governmental privilege for investigative files and techniques, the government’s informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP further objects on relevance grounds. Materials reflecting OFCCP’s internal deliberations and processes in its investigation are not relevant because they will not show, one way or the other, whether Oracle violated its equal opportunity obligations, including through engaging in systemic compensation and hiring discrimination.

OFCCP additionally objects to this Request to the extent it seeks documents that were created after March 11, 2016, which was the date the Notice of Violation was issued, because

any such documents were created in anticipation of litigation and are protected by the work product doctrine, trial preparation privilege, and/or attorney-client privilege.

OFCCP further objects to the phrase “communications” as overbroad and unduly burdensome.

OFCCP further objects to the phrase “related to” as overbroad and unduly burdensome.

OFCCP further objects to the entirety of this request as overbroad and unduly burdensome.

Subject to and without waiving the foregoing objections, OFCCP will produce all non-privileged documents contained in OFCCP’s investigative file for Oracle Redwood Shores (OFCCP Case No.: R00192699) (Siniscalco Declaration, Exhibit “B,” pp. 24-25).

Discussion

As discussed above (*see, inter alia*, Paragraph No. 1 on page 2 of this Order), Plaintiff must disclose the factual bases for the allegations it has set forth in the Amended Complaint. To the extent Plaintiff has not already done so, it must produce, within thirty days of issuance of this Order, any writings in its possession, custody, or control comprising or memorializing communications with third parties which support the material factual allegations of paragraph 9 of the Amended Complaint (exclusive of attorney work product, such as Plaintiff’s counsel’s thoughts, impressions, or analyses of such communications). To the extent Plaintiff fails to do so, it admits it has no such documents in its possession, custody, or control.

Request No. 47

Defendant’s Request No. 47: All statistical studies and analyses RELATED to the allegations described in Paragraph 9 of the Amended Complaint, including any that YOU did not adopt or endorse, and any that resulted in calculations different from those alleged. This request seeks all responsive DOCUMENTS in both final and draft form.

Plaintiff’s Response: OFCCP objects to this Request to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government’s deliberative process privilege, the governmental privilege for investigative files and techniques, the government’s informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP further objects on relevance grounds. Materials reflecting OFCCP’s internal deliberations and processes in its investigation are not relevant because they will not show, one way or the other, whether Oracle violated its equal opportunity obligations, including through engaging in systemic compensation and hiring discrimination.

OFCCP additionally objects to this Request to the extent it seeks documents that were created after March 11, 2016, which was the date the Notice of Violation was issued, because any such documents were created in anticipation of litigation and are protected by the work product doctrine, trial preparation privilege, and/or attorney-client privilege.

OFCCP further objects to the phrase “related to” as overbroad and unduly burdensome.

OFCCP further objects to the phrases “adopt” and “endorse” as vague and ambiguous.

Subject to and without waiving the foregoing objections, OFCCP will produce all non-privileged documents contained in OFCCP’s investigative file for Oracle Redwood Shores (OFCCP Case No.: R00192699) (Siniscalco Declaration, Exhibit “B,” p. 35).

Discussion

Defendant is not entitled to discover Plaintiff’s work product generally, but it is entitled to discover the factual bases for the allegations set forth in the Amended Complaint. Accordingly, to the extent it has not already done so, Plaintiff must produce, within thirty days of the issuance of this Order, all documents in its possession, custody, or control which show statistical, arithmetical, or mathematical calculations supporting the allegations set forth in Paragraph 9 of the Amended Complaint. To the extent Plaintiff fails to produce such documents, it admits it has no such documents in its possession, custody, or control.

Request No. 48

Defendant’s Request No. 48: All DOCUMENTS RELATED to the allegation in Paragraph 10 of the Amended Complaint that ORACLE discriminates against qualified “[‘non-Asian’] applicants in favor of Asian applicants, particularly Asian Indians based upon race for positions in the [‘PT1’] job group and Product Development line of business (or job function) at Oracle Redwood Shores.” This request includes but is not limited to all DOCUMENTS that identify the “non-Asians” that OFCCP alleges to be victims of discrimination.

Plaintiff’s Response: OFCCP objects to this Request to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government’s deliberative process privilege, the governmental privilege for investigative files and techniques, the government’s informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP further objects on relevance grounds. Materials reflecting OFCCP’s internal deliberations and processes in its investigation are not relevant because they will not show, one way or the other, whether Oracle violated its equal opportunity obligations, including through engaging in systemic compensation and hiring discrimination.

OFCCP additionally objects to this Request to the extent it seeks documents that were created after March 11, 2016, which was the date the Notice of Violation was issued, because any such documents were created in anticipation of litigation and are protected by the work product doctrine, trial preparation privilege, and/or attorney-client privilege.

OFCCP further objects to the phrase “related to” as overbroad and unduly burdensome.

OFCCP further objects to the phrase “identify” as vague and ambiguous.

Subject to and without waiving the foregoing objections, OFCCP will produce all non-privileged documents contained in OFCCP’s investigative file for Oracle Redwood Shores (OFCCP Case No.: R00192699) (Siniscalco Declaration, Exhibit “B,” pp. 35-36).

Discussion

As discussed above (*see, inter alia*, Paragraph No. 1 on page 2 of this Order), Plaintiff must disclose the factual bases for the allegations it has set forth in the Amended Complaint. To the extent it has not already done so, Plaintiff must produce, within thirty days of the date of issuance of this Order, all documents in its possession, custody, or control 1) upon which Plaintiff relied to allege discrimination in Paragraph 10 of its Amended Complaint, or which support that allegation; and 2) setting forth the identities of any non-Asians Plaintiff believes were victims of discrimination. To the extent Plaintiff fails to produce such documents, it admits it has no such documents in its possession, custody, or control.

Request No. 49

Defendant’s Request No. 49: All DOCUMENTS RELATED to YOUR determination of which employees are “qualified,” as alleged in Paragraph 10 of the Amended Complaint, including but not limited to DOCUMENTS RELATED to the methodology used to make such a determination.

Plaintiff’s Response: OFCCP objects to this Request to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government’s deliberative process privilege, the governmental privilege for investigative files and techniques, the government’s informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP further objects on relevance grounds. Materials reflecting OFCCP’s internal deliberations and processes in its investigation are not relevant because they will not show, one way or the other, whether Oracle violated its equal opportunity obligations, including through engaging in systemic compensation and hiring discrimination.

OFCCP additionally objects to this Request to the extent it seeks documents that were created after March 11, 2016, which was the date the Notice of Violation was issued, because

any such documents were created in anticipation of litigation and are protected by the work product doctrine, trial preparation privilege, and/or attorney-client privilege.

OFCCP further objects to the phrase “related to” as overbroad and unduly burdensome.

OFCCP objects to the phrase “methodology” as vague and ambiguous and overbroad and unduly burdensome.

Subject to and without waiving the foregoing objections, OFCCP will produce all non-privileged documents contained in OFCCP’s investigative file for Oracle Redwood Shores (OFCCP Case No.: R00192699) (Siniscalco Declaration, Exhibit “B,” pp. 36-37).

Discussion

As discussed above (*see, inter alia*, Paragraph No. 1 on page 2 of this Order), Plaintiff must disclose the factual bases for the allegations it has set forth in the Amended Complaint. To the extent it has not already done so, Plaintiff must produce, within thirty days of the date of issuance of this Order, all documents in its possession, custody, or control indicating, or upon which Plaintiff relied to determine, employees were “qualified,” as alleged in Paragraph 10 of the Amended Complaint; or which support Plaintiff’s conclusions that employees were so “qualified”. To the extent Plaintiff fails to produce such documents, it admits it has no such documents in its possession, custody, or control.

Request No. 50

Defendant’s Request No. 50: All DOCUMENTS RELATED to YOUR determination of which employees are “Asians,” as alleged in Paragraph 10 of the Amended Complaint.

Plaintiff’s Response: All DOCUMENTS RELATED to YOUR determination of which employees are “qualified,” as alleged in Paragraph 10 of the Amended Complaint, including but not limited to DOCUMENTS RELATED to the methodology used to make such a determination.

Plaintiff’s Response: OFCCP objects to this Request to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government’s deliberative process privilege, the governmental privilege for investigative files and techniques, the government’s informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP further objects on relevance grounds. Materials reflecting OFCCP’s internal deliberations and processes in its investigation are not relevant because they will not show, one way or the other, whether Oracle violated its equal opportunity obligations, including through engaging in systemic compensation and hiring discrimination.

OFCCP additionally objects to this Request to the extent it seeks documents that were created after March 11, 2016, which was the date the Notice of Violation was issued, because any such documents were created in anticipation of litigation and are protected by the work product doctrine, trial preparation privilege, and/or attorney-client privilege.

OFCCP further objects to the phrase “related to” as overbroad and unduly burdensome.

Subject to and without waiving the foregoing objections, OFCCP will produce all non-privileged documents contained in OFCCP’s investigative file for Oracle Redwood Shores (OFCCP Case No.: R00192699) (Siniscalco Declaration, Exhibit “B,” pp. 37-38).

Discussion

As discussed above (*see, inter alia*, Paragraph No. 1 on page 2 of this Order), Plaintiff must disclose the factual bases for the allegations it has set forth in the Amended Complaint. To the extent it has not already done so, Plaintiff must produce, within thirty days of the date of issuance of this Order, all documents in its possession, custody, or control upon which Plaintiff relied to determine which employees were “Asian,” as alleged in Paragraph 10 of the Amended Complaint; or which support Plaintiff’s determination of which employees were “Asian” for purposes of Paragraph 10 of the Amended Complaint. To the extent Plaintiff fails to produce such documents, it admits it has no such documents in its possession, custody, or control.

Request No. 51

Defendant’s Request No. 51: All DOCUMENTS RELATED to YOUR determination of which employees are “Asian Indians,” as alleged in Paragraph 10 of the Amended Complaint.

Plaintiff’s Response: All DOCUMENTS RELATED to YOUR determination of which employees are “qualified,” as alleged in Paragraph 10 of the Amended Complaint, including but not limited to DOCUMENTS RELATED to the methodology used to make such a determination.

Plaintiff’s Response: OFCCP objects to this Request to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government’s deliberative process privilege, the governmental privilege for investigative files and techniques, the government’s informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP further objects on relevance grounds. Materials reflecting OFCCP’s internal deliberations and processes in its investigation are not relevant because they will not show, one way or the other, whether Oracle violated its equal opportunity obligations, including through engaging in systemic compensation and hiring discrimination.

OFCCP additionally objects to this Request to the extent it seeks documents that were created after March 11, 2016, which was the date the Notice of Violation was issued, because any such documents were created in anticipation of litigation and are protected by the work product doctrine, trial preparation privilege, and/or attorney-client privilege.

OFCCP further objects to the phrase “related to” as overbroad and unduly burdensome.

Subject to and without waiving the foregoing objections, OFCCP will produce all non-privileged documents contained in OFCCP’s investigative file for Oracle Redwood Shores (OFCCP Case No.: R00192699) (Siniscalco Declaration, Exhibit “B,” p. 38).

Discussion

As discussed above (*see, inter alia*, Paragraph No. 1 on page 2 of this Order), Plaintiff must disclose the factual bases for the allegations it has set forth in the Amended Complaint. To the extent it has not already done so, Plaintiff must produce, within thirty days of the date of issuance of this Order, all documents in its possession, custody, or control indicating, or upon which Plaintiff relied to determine, which employees were “Asian Indians,” as alleged in Paragraph 10 of the Amended Complaint; or which support Plaintiff’s determination of which employees were “Asian Indians” as alleged in Paragraph 10 of the Amended Complaint. To the extent Plaintiff fails to produce such documents, it admits it has no such documents in its possession, custody, or control.

Request No. 52

Defendant’s Request No. 52: All DOCUMENTS RELATED to the allegation in Paragraph 10 of the Amended Complaint that ORACLE “hired 82% Asians into the PT1 job group . . . exceeding the 73% of Asians who applied and resulting in statistically significant adverse impact against non-Asian applicants.” This request includes but is not limited to DOCUMENTS showing underlying statistical data, methodologies, and actual computations used to support this conclusion.

Plaintiff’s Response: OFCCP objects to the entirety of this request as it misquotes from Paragraph 10 of the Amended Complaint.

OFCCP objects to this Request to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government’s deliberative process privilege, the governmental privilege for investigative files and techniques, the government’s informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP further objects on relevance grounds. Materials reflecting OFCCP’s internal deliberations and processes in its investigation are not relevant because they will not show, one

way or the other, whether Oracle violated its equal opportunity obligations, including through engaging in systemic compensation and hiring discrimination.

OFCCP additionally objects to this Request to the extent it seeks documents that were created after March 11, 2016, which was the date the Notice of Violation was issued, because any such documents were created in anticipation of litigation and are protected by the work product doctrine, trial preparation privilege, and/or attorney-client privilege.

OFCCP further objects to the phrase “related to” as overbroad and unduly burdensome.

OFCCP objects to the phrase “methodologies” as vague and ambiguous and overbroad and unduly burdensome.

Subject to and without waiving the foregoing objections, OFCCP will produce all non-privileged documents contained in OFCCP’s investigative file for Oracle Redwood Shores (OFCCP Case No.: R00192699) (Siniscalco Declaration, Exhibit “B,” pp. 38-39).

Discussion

The court concludes the language cited from Paragraph 10 of the Amended Complaint is accurate and not misleading. As discussed above (*see, inter alia*, Paragraph No. 1 on page 2 of this Order), Plaintiff must disclose the factual bases for the allegations it has set forth in the Amended Complaint. Accordingly, to the extent it has not already done so, Plaintiff must produce, within thirty days of the date of issuance of this Order, all documents in its possession, custody, or control upon which Plaintiff relied to make the allegation quoted in the request, or which support that allegation. To the extent Plaintiff fails to produce such documents, it admits it has no such documents in its possession, custody, or control.

Request No. 53

Defendant’s Request No. 53: All DOCUMENTS RELATED to the allegation in Paragraph 10 of the Amended Complaint that ORACLE “utilize[s] a recruiting and hiring process that discriminates against qualified African American, Hispanic and White . . . applicants in favor of Asian applicants.”

Plaintiff’s Response: OFCCP objects to this Request to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government’s deliberative process privilege, the governmental privilege for investigative files and techniques, the government’s informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP further objects on relevance grounds. Materials reflecting OFCCP’s internal deliberations and processes in its investigation are not relevant because they will not show, one

way or the other, whether Oracle violated its equal opportunity obligations, including through engaging in systemic compensation and hiring discrimination.

OFCCP additionally objects to this Request to the extent it seeks documents that were created after March 11, 2016, which was the date the Notice of Violation was issued, because any such documents were created in anticipation of litigation and are protected by the work product doctrine, trial preparation privilege, and/or attorney-client privilege.

OFCCP further objects to the phrase “related to” as overbroad and unduly burdensome.

Subject to and without waiving the foregoing objections, OFCCP will produce all non-privileged documents contained in OFCCP’s investigative file for Oracle Redwood Shores (OFCCP Case No.: R00192699) (Siniscalco Declaration, Exhibit “B,” pp. 39-40).

Discussion

Without the full text of the request, including the introductory definitions which Defendant did not provide, the court cannot determine the scope of this request as phrased. But Defendant may properly inquire about the factual basis for this allegation. Accordingly, to the extent it has not already done so, Plaintiff must produce, within thirty days of the date of issuance of this Order, all documents in its possession, custody, or control supporting the allegation, or upon which Plaintiff relied to allege, that Oracle’s “recruiting and hiring process discriminates against qualified African American, Hispanic and White . . . applicants in favor of Asian applicants,” as alleged in Paragraph 10 of the Amended Complaint. To the extent Plaintiff fails to produce such documents, it admits it has no such documents in its possession, custody, or control.

Request No. 54

Defendant’s Request No. 54: All DOCUMENTS RELATED to the allegation in Paragraph 10 of the Amended Complaint that “comparisons between available applicants from national labor data and Oracle’s hires show gross and statistically significant disparities in the hiring of Asians versus non-Asians.”

Plaintiff’s Response: OFCCP objects to this Request to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government’s deliberative process privilege, the governmental privilege for investigative files and techniques, the government’s informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP further objects on relevance grounds. Materials reflecting OFCCP’s internal deliberations and processes in its investigation are not relevant because they will not show, one way or the other, whether Oracle violated its equal opportunity obligations, including through engaging in systemic compensation and hiring discrimination.

OFCCP additionally objects to this Request to the extent it seeks documents that were created after March 11, 2016, which was the date the Notice of Violation was issued, because any such documents were created in anticipation of litigation and are protected by the work product doctrine, trial preparation privilege, and/or attorney-client privilege.

OFCCP further objects to the phrase “related to” as overbroad and unduly burdensome.

Subject to and without waiving the foregoing objections, OFCCP will produce all non-privileged documents contained in OFCCP’s investigative file for Oracle Redwood Shores (OFCCP Case No.: R00192699) (Siniscalco Declaration, Exhibit “B,” pp. 40-41).

Discussion

As discussed above (*see, inter alia*, Paragraph No. 1 on page 2 of this Order), Plaintiff must disclose the factual bases for the allegations it has set forth in the Amended Complaint. To the extent it has not already done so, Plaintiff must produce, within thirty days of the date of issuance of this Order, all documents in its possession, custody, or control upon which Plaintiff relied to in making the allegations quoted in the request; or which support that allegation. To the extent Plaintiff fails to produce such documents, it admits it has no such documents in its possession, custody, or control.

Request No. 55

Defendant’s Request No. 55: All DOCUMENTS RELATED to the allegation in Paragraph 10 of the Amended Complaint that “Oracle’s applicant pool was heavily over-represented by Asian applicants as the result of Oracle’s recruiting and hiring practices.”

Plaintiff’s Response: OFCCP objects to this Request to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government’s deliberative process privilege, the governmental privilege for investigative files and techniques, the government’s informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP further objects on relevance grounds. Materials reflecting OFCCP’s internal deliberations and processes in its investigation are not relevant because they will not show, one way or the other, whether Oracle violated its equal opportunity obligations, including through engaging in systemic compensation and hiring discrimination.

OFCCP additionally objects to this Request to the extent it seeks documents that were created after March 11, 2016, which was the date the Notice of Violation was issued, because any such documents were created in anticipation of litigation and are protected by the work product doctrine, trial preparation privilege, and/or attorney-client privilege.

OFCCP further objects to the phrase “related to” as overbroad and unduly burdensome.

Subject to and without waiving the foregoing objections, OFCCP will produce all non-privileged documents contained in OFCCP's investigative file for Oracle Redwood Shores (OFCCP Case No.: R00192699) (Siniscalco Declaration, Exhibit "B," pp. 40-41).

Discussion

As discussed above (*see, inter alia*, Paragraph No. 1 on page 2 of this Order), Plaintiff must disclose the factual bases for the allegations it has set forth in the Amended Complaint. To the extent it has not already done so, Plaintiff must produce, within thirty days of the date of issuance of this Order, all documents in its possession, custody, or control upon which Plaintiff relied to in making the allegations quoted in the request; or which support those allegations. To the extent Plaintiff fails to produce such documents, it admits it has no such documents in its possession, custody, or control.

Request No. 56

Defendant's Request No. 56: All DOCUMENTS RELATED to the allegation from Paragraph 10 of the Amended Complaint that ORACLE "over-select[ed] Asian applicants, particularly Asian Indians, from its actual applicant pool."

Plaintiff's Response: OFCCP objects to this Request to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government's deliberative process privilege, the governmental privilege for investigative files and techniques, the government's informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP further objects on relevance grounds. Materials reflecting OFCCP's internal deliberations and processes in its investigation are not relevant because they will not show, one way or the other, whether Oracle violated its equal opportunity obligations, including through engaging in systemic compensation and hiring discrimination.

OFCCP additionally objects to this Request to the extent it seeks documents that were created after March 11, 2016, which was the date the Notice of Violation was issued, because any such documents were created in anticipation of litigation and are protected by the work product doctrine, trial preparation privilege, and/or attorney-client privilege.

OFCCP further objects to the phrase "related to" as overbroad and unduly burdensome.

Subject to and without waiving the foregoing objections, OFCCP will produce all non-privileged documents contained in OFCCP's investigative file for Oracle Redwood Shores (OFCCP Case No.: R00192699) (Siniscalco Declaration, Exhibit "B," pp. 41-42).

Discussion

As discussed above (*see, inter alia*, Paragraph No. 1 on page 2 of this Order), Plaintiff must disclose the factual bases for the allegations it has set forth in the Amended Complaint. To the extent it has not already done so, Plaintiff must produce, within thirty days of the date of issuance of this Order, all documents in its possession, custody, or control upon which Plaintiff relied to in making the allegations quoted in the request, or which support those allegations. To the extent Plaintiff fails to produce such documents, it admits it has no such documents in its possession, custody, or control.

Request No. 57

Defendant's Request No. 57: All DOCUMENTS RELATED to the allegation from Paragraph 10 of the Amended Complaint that ORACLE used "hiring strategies such as targeted recruitment."

Plaintiff's Response: OFCCP objects to this Request to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government's deliberative process privilege, the governmental privilege for investigative files and techniques, the government's informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP further objects on relevance grounds. Materials reflecting OFCCP's internal deliberations and processes in its investigation are not relevant because they will not show, one way or the other, whether Oracle violated its equal opportunity obligations, including through engaging in systemic compensation and hiring discrimination.

OFCCP additionally objects to this Request to the extent it seeks documents that were created after March 11, 2016, which was the date the Notice of Violation was issued, because any such documents were created in anticipation of litigation and are protected by the work product doctrine, trial preparation privilege, and/or attorney-client privilege.

OFCCP further objects to the phrase "related to" as overbroad and unduly burdensome.

Subject to and without waiving the foregoing objections, OFCCP will produce all non-privileged documents contained in OFCCP's investigative file for Oracle Redwood Shores (OFCCP Case No.: R00192699) (Siniscalco Declaration, Exhibit "B," pp. 42-43).

Discussion

As discussed above (*see, inter alia*, Paragraph No. 1 on page 2 of this Order), Plaintiff must disclose the factual bases for the allegations it has set forth in the Amended Complaint. To the extent it has not already done so, Plaintiff must produce, within thirty days of the date of issuance of this Order, all documents in its possession, custody, or control upon which Plaintiff relied in making the allegations quoted in the request, or which support those allegations. To the extent Plaintiff

fails to produce such documents, it admits it has no such documents in its possession, custody, or control.

Request No. 58

Defendant's Request No. 58: All DOCUMENTS RELATED to the allegation from Paragraph 10 of the Amended Complaint that ORACLE used "referral bonuses that encouraged its heavily Asian workforce to recruit other Asians."

Plaintiff's Response: OFCCP objects to this Request to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government's deliberative process privilege, the governmental privilege for investigative files and techniques, the government's informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP further objects on relevance grounds. Materials reflecting OFCCP's internal deliberations and processes in its investigation are not relevant because they will not show, one way or the other, whether Oracle violated its equal opportunity obligations, including through engaging in systemic compensation and hiring discrimination.

OFCCP additionally objects to this Request to the extent it seeks documents that were created after March 11, 2016, which was the date the Notice of Violation was issued, because any such documents were created in anticipation of litigation and are protected by the work product doctrine, trial preparation privilege, and/or attorney-client privilege.

OFCCP further objects to the phrase "related to" as overbroad and unduly burdensome.

Subject to and without waiving the foregoing objections, OFCCP will produce all non-privileged documents contained in OFCCP's investigative file for Oracle Redwood Shores (OFCCP Case No.: R00192699) (Siniscalco Declaration, Exhibit "B," p. 43).

Discussion

Once again, Defendant is not entitled to discover all of Plaintiff's attorney work product generally. Documents "RELATED to" allegations may be privileged from disclosure. But Plaintiff must disclose (*see, inter alia*, Paragraph No. 1 on page 2 of this Order) the factual bases for the allegations it has set forth in the Amended Complaint. Accordingly, to the extent it has not already done so, Plaintiff must produce, within thirty days of the date of issuance of this Order, all documents in its possession, custody, or control upon which Plaintiff relied in making the allegations quoted in the request, or which support those allegations. To the extent Plaintiff fails to produce such documents, it admits it has no such documents in its possession, custody, or control.

Request No. 59

Defendant's Request No. 59: All DOCUMENTS RELATED to the allegation from Paragraph 10 of the Amended Complaint that Oracle has a "reputation for favoring Asians."

Plaintiff's Response: OFCCP objects to this Request to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government's deliberative process privilege, the governmental privilege for investigative files and techniques, the government's informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP further objects on relevance grounds. Materials reflecting OFCCP's internal deliberations and processes in its investigation are not relevant because they will not show, one way or the other, whether Oracle violated its equal opportunity obligations, including through engaging in systemic compensation and hiring discrimination.

OFCCP additionally objects to this Request to the extent it seeks documents that were created after March 11, 2016, which was the date the Notice of Violation was issued, because any such documents were created in anticipation of litigation and are protected by the work product doctrine, trial preparation privilege, and/or attorney-client privilege.

OFCCP further objects to the phrase "related to" as overbroad and unduly burdensome.

Subject to and without waiving the foregoing objections, OFCCP will produce all non-privileged documents contained in OFCCP's investigative file for Oracle Redwood Shores (OFCCP Case No.: R00192699) (Siniscalco Declaration, Exhibit "B," pp. 43-44).

Discussion

As discussed above (*see, inter alia*, Paragraph No. 1 on page 2 of this Order), Plaintiff must disclose the factual bases for the allegations it has set forth in the Amended Complaint. To the extent it has not already done so, Plaintiff must produce, within thirty days of the date of issuance of this Order, all documents in its possession, custody, or control upon which Plaintiff relied in making the allegations quoted in the request, or which support those allegations. To the extent Plaintiff fails to produce such documents, it admits it has no such documents in its possession, custody, or control.

Request No. 60

Defendant's Request No. 60: All CASE FILES RELATED to the allegations described in Paragraph 10 of the Amended Complaint.

Plaintiff's Response: OFCCP objects to this Request to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government's deliberative process privilege, the governmental privilege for investigative files and techniques, the government's informant privilege, the trial preparation privilege described in Rule 26(b)(3)

of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP further objects on relevance grounds. Materials reflecting OFCCP's internal deliberations and processes in its investigation are not relevant because they will not show, one way or the other, whether Oracle violated its equal opportunity obligations, including through engaging in systemic compensation and hiring discrimination.

OFCCP additionally objects to this Request to the extent it seeks documents that were created after March 11, 2016, which was the date the Notice of Violation was issued, because any such documents were created in anticipation of litigation and are protected by the work product doctrine, trial preparation privilege, and/or attorney-client privilege.

OFCCP further objects to the phrase "related to" as overbroad and unduly burdensome.

Subject to and without waiving the foregoing objections, OFCCP will produce all non-privileged documents contained in OFCCP's investigative file for Oracle Redwood Shores (OFCCP Case No.: R00192699) (Siniscalco Declaration, Exhibit "B," p. 44).

Discussion

Because Defendant has not given the court the full text of its Requests, the court does not know how Defendant defined the term "CASE FILES." Because the court cannot determine exactly what Defendant has requested, it must conclude the request does not define a category of documents with reasonable particularity. Plaintiff need not produce additional documents in response to this Request.

Request No. 61

Defendant's Request No. 61: All CASE ANALYSES RELATED to the allegations described in Paragraph 10 of the Amended Complaint.

Plaintiff's Response: OFCCP objects to this Request to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government's deliberative process privilege, the governmental privilege for investigative files and techniques, the government's informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP further objects on relevance grounds. Materials reflecting OFCCP's internal deliberations and processes in its investigation are not relevant because they will not show, one way or the other, whether Oracle violated its equal opportunity obligations, including through engaging in systemic compensation and hiring discrimination.

OFCCP additionally objects to this Request to the extent it seeks documents that were created after March 11, 2016, which was the date the Notice of Violation was issued, because

any such documents were created in anticipation of litigation and are protected by the work product doctrine, trial preparation privilege, and/or attorney-client privilege.

OFCCP further objects to the phrase “related to” as overbroad and unduly burdensome.

Subject to and without waiving the foregoing objections, OFCCP will produce all non-privileged documents contained in OFCCP’s investigative file for Oracle Redwood Shores (OFCCP Case No.: R00192699) (Siniscalco Declaration, Exhibit “B,” p. 45).

Discussion

Again, Defendant appears specifically to have defined the term “CASE ANALYSES” for purposes of its Request, but has not shared that definition with the court. On the record before it, the court must conclude this request does not describe a category of documents with reasonable particularity. Plaintiff need not produce additional documents in response to this request.

Request No. 62

Defendant’s Request No. 62: All interview notes, summaries and memoranda for each interview YOU conducted that RELATES to the allegations described in Paragraph 10 of the Amended Complaint.

Plaintiff’s Response: OFCCP objects to this Request to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government’s deliberative process privilege, the governmental privilege for investigative files and techniques, the government’s informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP further objects on relevance grounds. Materials reflecting OFCCP’s internal deliberations and processes in its investigation are not relevant because they will not show, one way or the other, whether Oracle violated its equal opportunity obligations, including through engaging in systemic compensation and hiring discrimination.

OFCCP additionally objects to this Request to the extent it seeks documents that were created after March 11, 2016, which was the date the Notice of Violation was issued, because any such documents were created in anticipation of litigation and are protected by the work product doctrine, trial preparation privilege, and/or attorney-client privilege.

OFCCP further objects to the phrase “relates to” as overbroad and unduly burdensome.

OFCCP further objects to the phrase “summaries” as vague and ambiguous.

Subject to and without waiving the foregoing objections, OFCCP will produce all non-privileged documents contained in OFCCP's investigative file for Oracle Redwood Shores (OFCCP Case No.: R00192699) (Siniscalco Declaration, Exhibit "B," pp. 45-46).

Discussion

As discussed above (*see, inter alia*, Paragraph No. 1 on page 2 of this Order), Plaintiff must disclose the factual bases for the allegations it has set forth in the Amended Complaint. To the extent it has not already done so, Plaintiff must produce interview notes, interview summaries, or other writings which memorialize the content of any interviews which support the material factual allegations of Paragraph 10 of the Amended Complaint (exclusive of attorney work product, such as Plaintiff's counsel's thoughts, impressions, or analyses of the substance of such interviews). Plaintiff must produce such documents within thirty days of the issuance of this Order. To the extent it fails to do so, it admits it has no such documents in its possession, custody, or control.

Request No. 63

Defendant's Request No. 63: All DOCUMENTS RELATED to COMMUNICATIONS between YOU and any THIRD PARTIES, including possible CLASS MEMBERS or their attorneys, RELATED to the allegations described in Paragraph 10 of the Amended Complaint.

Plaintiff's Response: OFCCP objects to this Request to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government's deliberative process privilege, the governmental privilege for investigative files and techniques, the government's informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP further objects on relevance grounds. Materials reflecting OFCCP's internal deliberations and processes in its investigation are not relevant because they will not show, one way or the other, whether Oracle violated its equal opportunity obligations, including through engaging in systemic compensation and hiring discrimination.

OFCCP additionally objects to this Request to the extent it seeks documents that were created after March 11, 2016, which was the date the Notice of Violation was issued, because any such documents were created in anticipation of litigation and are protected by the work product doctrine, trial preparation privilege, and/or attorney-client privilege.

OFCCP further objects to the phrase "communications" as overbroad and unduly burdensome.

OFCCP further objects to the phrase "related to" as overbroad and unduly burdensome.

OFCCP further objects to the entirety of this request as overbroad and unduly burdensome.

Subject to and without waiving the foregoing objections, OFCCP will produce all non-privileged documents contained in OFCCP's investigative file for Oracle Redwood Shores (OFCCP Case No.: R00192699) (Siniscalco Declaration, Exhibit "B," pp. 46-47).

Discussion

As discussed above (*see, inter alia*, Paragraph No. 1 on page 2 of this Order), Plaintiff must disclose the factual bases for the allegations it has set forth in the Amended Complaint. To the extent Plaintiff has not already done so, it must produce, within thirty days of issuance of this Order, any writings in its possession, custody, or control comprising or memorializing communications with third parties which support the material factual allegations of paragraph 10 of the Amended Complaint (exclusive of attorney work product, such as Plaintiff's counsel's thoughts, impressions, or analyses of the substance of such communications). To the extent Plaintiff fails to do so, it admits it has no such documents in its possession, custody, or control.

Request No. 64

Defendant's Request No. 64: All statistical studies and analyses RELATED to the allegations described in Paragraph 10 of the Amended Complaint, including any that YOU did not adopt or endorse, and any that resulted in calculations different from those alleged. This request seeks all responsive DOCUMENTS in both final and draft form.

Plaintiff's Response: OFCCP objects to this Request to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government's deliberative process privilege, the governmental privilege for investigative files and techniques, the government's informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP further objects on relevance grounds. Materials reflecting OFCCP's internal deliberations and processes in its investigation are not relevant because they will not show, one way or the other, whether Oracle violated its equal opportunity obligations, including through engaging in systemic compensation and hiring discrimination.

OFCCP additionally objects to this Request to the extent it seeks documents that were created after March 11, 2016, which was the date the Notice of Violation was issued, because any such documents were created in anticipation of litigation and are protected by the work product doctrine, trial preparation privilege, and/or attorney-client privilege.

OFCCP further objects to the phrase "related to" as overbroad and unduly burdensome.

OFCCP further objects to the phrases “adopt” and “endorse” as vague and ambiguous.

Subject to and without waiving the foregoing objections, OFCCP will produce all non-privileged documents contained in OFCCP’s investigative file for Oracle Redwood Shores (OFCCP Case No.: R00192699) (Siniscalco Declaration, Exhibit “B,” p. 47).

Discussion

Defendant is not entitled to discover Plaintiff’s work product generally, but it is entitled to discover the factual basis for the allegations in the Amended Complaint (*see, inter alia*, Paragraph No. 1 on page 2 of this Order). Thus, to the extent it has not already done so, within thirty days of the issuance of this Order, Plaintiff must produce all documents in its possession, custody, or control which show statistical, arithmetical, or mathematical calculations supporting the allegations set forth in Paragraph 10 of the Amended Complaint. To the extent Plaintiff fails to produce such documents, it admits it has no such documents in its possession, custody, or control.

Request No. 65

Defendant’s Request No. 65: All DOCUMENTS RELATED to the allegation in Paragraph 12 of the Amended Complaint that YOU requested “various records” that ORACLE “refused to produce,” including but not limited to all requests YOU contend YOU made and all responses or explanations provided by ORACLE.

Plaintiff’s Response: OFCCP objects to this Request to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government’s deliberative process privilege, the governmental privilege for investigative files and techniques, the government’s informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP further objects on relevance grounds. Materials reflecting OFCCP’s internal deliberations and processes in its investigation are not relevant because they will not show, one way or the other, whether Oracle violated its equal opportunity obligations, including through engaging in systemic compensation and hiring discrimination.

OFCCP additionally objects to this Request to the extent it seeks documents that were created after March 11, 2016, which was the date the Notice of Violation was issued, because any such documents were created in anticipation of litigation and are protected by the work product doctrine, trial preparation privilege, and/or attorney-client privilege.

OFCCP further objects to the phrase “related to” as overbroad and unduly burdensome.

Subject to and without waiving the foregoing objections, OFCCP will produce all non-privileged documents contained in OFCCP's investigative file for Oracle Redwood Shores (OFCCP Case No.: R00192699) (Siniscalco Declaration, Exhibit "B," p. 48).

Discussion

The court sustains Plaintiff's objection to this request as irrelevant. The court further concludes this request is not proportional to the needs of the case under Federal Rules of Civil Procedure Rule 26(b)(1). Defendant presumably already has in its possession any written demands for documents Plaintiff made, and knows how it responded. Plaintiff need not produce additional documents in response to this request.

Request No. 66

Defendant's Request No. 66: All DOCUMENTS RELATED to the allegation in Paragraph 13 of the Amended Complaint that YOU requested "material demonstrating whether or not [Oracle] had performed an in-depth review of its compensation practice."

Plaintiff's Response: OFCCP objects to this Request to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government's deliberative process privilege, the governmental privilege for investigative files and techniques, the government's informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP further objects on relevance grounds. Materials reflecting OFCCP's internal deliberations and processes in its investigation are not relevant because they will not show, one way or the other, whether Oracle violated its equal opportunity obligations, including through engaging in systemic compensation and hiring discrimination.

OFCCP additionally objects to this Request to the extent it seeks documents that were created after March 11, 2016, which was the date the Notice of Violation was issued, because any such documents were created in anticipation of litigation and are protected by the work product doctrine, trial preparation privilege, and/or attorney-client privilege.

OFCCP further objects to the phrase "related to" as overbroad and unduly burdensome.

Subject to and without waiving the foregoing objections, OFCCP will produce all non-privileged documents contained in OFCCP's investigative file for Oracle Redwood Shores (OFCCP Case No.: R00192699) (Siniscalco Declaration, Exhibit "B," pp. 48-49).

Discussion

The court sustains Plaintiff's objection to this request as irrelevant. The court further concludes this request is not proportional to the needs of the case un-

der Federal Rules of Civil Procedure Rule 26(b)(1). Defendant presumably already has in its possession any written demands for documents Plaintiff made, and knows how it responded. Plaintiff need not produce additional documents in response to this request.

Request No. 67

Defendant's Request No. 67: All DOCUMENTS RELATED to the allegation in Paragraph 13 of the Amended Complaint that "Oracle refused to produce to the agency any material demonstrating whether or not it had performed an in-depth review of its compensation practice."

Plaintiff's Response: OFCCP objects to this Request to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government's deliberative process privilege, the governmental privilege for investigative files and techniques, the government's informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP further objects on relevance grounds. Materials reflecting OFCCP's internal deliberations and processes in its investigation are not relevant because they will not show, one way or the other, whether Oracle violated its equal opportunity obligations, including through engaging in systemic compensation and hiring discrimination.

OFCCP additionally objects to this Request to the extent it seeks documents that were created after March 11, 2016, which was the date the Notice of Violation was issued, because any such documents were created in anticipation of litigation and are protected by the work product doctrine, trial preparation privilege, and/or attorney-client privilege.

OFCCP further objects to the phrase "related to" as overbroad and unduly burdensome.

Subject to and without waiving the foregoing objections, OFCCP will produce all non-privileged documents contained in OFCCP's investigative file for Oracle Redwood Shores (OFCCP Case No.: R00192699) (Siniscalco Declaration, Exhibit "B," pp. 49-50).

Discussion

The court sustains Plaintiff's objection to this request as irrelevant. The court further concludes this request is not proportional to the needs of the case under Federal Rules of Civil Procedure Rule 26(b)(1). Defendant presumably already has in its possession any written demands for documents Plaintiff made, and knows how it responded, including whether it refused to produce something that Plaintiff requested. Plaintiff need not produce additional documents in response to this request.

Request No. 68

Defendant's Request No. 68: All DOCUMENTS RELATED to the allegation in Paragraph 13 of the Amended Complaint that "Oracle failed to provide any evidence that it conducted an adverse impact analysis."

Plaintiff's Response: OFCCP objects to this Request to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government's deliberative process privilege, the governmental privilege for investigative files and techniques, the government's informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP further objects on relevance grounds. Materials reflecting OFCCP's internal deliberations and processes in its investigation are not relevant because they will not show, one way or the other, whether Oracle violated its equal opportunity obligations, including through engaging in systemic compensation and hiring discrimination.

OFCCP additionally objects to this Request to the extent it seeks documents that were created after March 11, 2016, which was the date the Notice of Violation was issued, because any such documents were created in anticipation of litigation and are protected by the work product doctrine, trial preparation privilege, and/or attorney-client privilege.

OFCCP further objects to the phrase "related to" as overbroad and unduly burdensome.

Subject to and without waiving the foregoing objections, OFCCP will produce all non-privileged documents contained in OFCCP's investigative file for Oracle Redwood Shores (OFCCP Case No.: R00192699) (Siniscalco Declaration, Exhibit "B," p. 50).

Discussion

The court sustains Plaintiff's objection to this request as irrelevant. The court further concludes this request is not proportional to the needs of the case under Federal Rules of Civil Procedure Rule 26(b)(1). Defendant presumably already has in its possession any written demands Plaintiff made, and knows whether it refused to provide evidence of any adverse impact analysis. Plaintiff need not produce additional documents in response to this request.

Request No. 69

Defendant's Request No. 69: All DOCUMENTS RELATED to the allegation in Paragraph 14 of the Amended Complaint that "Oracle defaulted on its obligations."

Plaintiff's Response: OFCCP objects to this Request to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government's deliberative process privilege, the governmental privilege for investigative files and techniques, the government's informant privilege, the trial preparation privilege described in Rule 26(b)(3)

of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP further objects on relevance grounds. Materials reflecting OFCCP's internal deliberations and processes in its investigation are not relevant because they will not show, one way or the other, whether Oracle violated its equal opportunity obligations, including through engaging in systemic compensation and hiring discrimination.

OFCCP additionally objects to this Request to the extent it seeks documents that were created after March 11, 2016, which was the date the Notice of Violation was issued, because any such documents were created in anticipation of litigation and are protected by the work product doctrine, trial preparation privilege, and/or attorney-client privilege.

OFCCP further objects to the phrase "related to" as overbroad and unduly burdensome.

Subject to and without waiving the foregoing objections, OFCCP will produce all non-privileged documents contained in OFCCP's investigative file for Oracle Redwood Shores (OFCCP Case No.: R00192699) (Siniscalco Declaration, Exhibit "B," pp. 50-51).

Discussion

As discussed above (*see, inter alia*, Paragraph No. 1 on page 2 of this Order), Plaintiff must disclose the factual bases for the allegations it has set forth in the Amended Complaint. To the extent it has not already done so, Plaintiff must produce, within thirty days of the date of issuance of this Order, all documents in its possession, custody, or control upon which Plaintiff relied in making the allegations quoted in the request, or which support those allegations. To the extent Plaintiff fails to produce such documents, it admits it has no such documents in its possession, custody, or control.

Request No. 70

Defendant's Request No. 70: All DOCUMENTS RELATED to any objections and inquiries made by ORACLE in connection with the conciliation process, including but not limited to any responsive correspondence, actions, or other responses by YOU.

Plaintiff's Response: OFCCP objects to this Request to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government's deliberative process privilege, the governmental privilege for investigative files and techniques, the government's informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP further objects on relevance grounds. Materials reflecting OFCCP's internal deliberations and processes in its investigation are not relevant because they will not show, one

way or the other, whether Oracle violated its equal opportunity obligations, including through engaging in systemic compensation and hiring discrimination.

OFCCP additionally objects to this Request to the extent it seeks documents that were created after March 11, 2016, which was the date the Notice of Violation was issued, because any such documents were created in anticipation of litigation and are protected by the work product doctrine, trial preparation privilege, and/or attorney-client privilege.

OFCCP further objects to the phrase “related to” as overbroad and unduly burdensome.

OFCCP further objects on the grounds that this request is unduly burdensome, duplicative, and unnecessary, as Oracle is asking OFCCP to produce back to it objections and inquiries made by Oracle and equally within Oracle’s possession or control.

Subject to and without waiving the foregoing objections, OFCCP will produce all non-privileged documents contained in OFCCP’s investigative file for Oracle Redwood Shores (OFCCP Case No.: R00192699) (Siniscalco Declaration, Exhibit “B,” pp. 51-52).

Discussion

The court sustains Plaintiff’s objection to this request as irrelevant. The court further concludes this request is not proportional to the needs of the case under Federal Rules of Civil Procedure Rule 26(b)(1). Defendant presumably already has in its possession any such communications it made, together with any responses it received. Plaintiff need not produce additional documents in response to this request.

Request No. 71

Defendant’s Request No. 71: All DOCUMENTS RELATED to the allegation in Paragraph 17 of the Amended Complaint that YOU “attempted to conciliate with Oracle.”

Plaintiff’s Response: OFCCP objects to this Request to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government’s deliberative process privilege, the governmental privilege for investigative files and techniques, the government’s informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP further objects on relevance grounds. Materials reflecting OFCCP’s internal deliberations and processes in its investigation are not relevant because they will not show, one way or the other, whether Oracle violated its equal opportunity obligations, including through engaging in systemic compensation and hiring discrimination.

OFCCP additionally objects to this Request to the extent it seeks documents that were created after March 11, 2016, which was the date the Notice of Violation was issued, because

any such documents were created in anticipation of litigation and are protected by the work product doctrine, trial preparation privilege, and/or attorney-client privilege.

OFCCP further objects to the phrase “related to” as overbroad and unduly burdensome.

Subject to and without waiving the foregoing objections, OFCCP will produce all non-privileged documents contained in OFCCP’s investigative file for Oracle Redwood Shores (OFCCP Case No.: R00192699) (Siniscalco Declaration, Exhibit “B,” p. 52).

Discussion

Although the court does not know what meaning Defendant attaches to “RE-LATED” for purposes of this request (*see, inter alia*, Paragraph No. 1 on page 2 of this Order), Defendant may properly inquire about the factual basis for the allegation set forth in the request. Accordingly, to the extent it has not already done so, Plaintiff must produce, within thirty days of the date of issuance of this Order, all documents in its possession, custody, or control upon which Plaintiff relied in making the allegations quoted in the request, or which support those allegations. To the extent Plaintiff fails to produce such documents, it admits it has no such documents in its possession, custody, or control.

Request No. 72

Defendant’s Request No. 72: All DOCUMENTS RELATED to the allegation in Paragraph 18 of the Amended Complaint that YOUR “conciliation . . . efforts were unsuccessful.”

Plaintiff’s Response: OFCCP objects to this Request to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government’s deliberative process privilege, the governmental privilege for investigative files and techniques, the government’s informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP further objects on relevance grounds. Materials reflecting OFCCP’s internal deliberations and processes in its investigation are not relevant because they will not show, one way or the other, whether Oracle violated its equal opportunity obligations, including through engaging in systemic compensation and hiring discrimination.

OFCCP additionally objects to this Request to the extent it seeks documents that were created after March 11, 2016, which was the date the Notice of Violation was issued, because any such documents were created in anticipation of litigation and are protected by the work product doctrine, trial preparation privilege, and/or attorney-client privilege.

OFCCP further objects to the phrase “related to” as overbroad and unduly burdensome.

Subject to and without waiving the foregoing objections, OFCCP will produce all non-privileged documents contained in OFCCP's investigative file for Oracle Redwood Shores (OFCCP Case No.: R00192699) (Siniscalco Declaration, Exhibit "B," pp. 52-53).

Discussion

Although the court does not know what meaning Defendant attaches to "RELATED" for purposes of this request (*see, inter alia*, Paragraph No. 1 on page 2 of this Order), Defendant may properly inquire about the factual basis for this allegation. Accordingly, to the extent it has not already done so, Plaintiff must produce, within thirty days of the date of issuance of this Order, all documents in its possession, custody, or control upon which Plaintiff relied to in making the allegations quoted in the request, or which support those allegations. To the extent Plaintiff fails to produce such documents, it admits it has no such documents in its possession, custody, or control.

Request No. 73

Defendant's Request No. 73: All DOCUMENTS RELATED to the allegation in Paragraph 19 of the Amended Complaint that "Oracle will continue to violate its obligations under the Executive Order and the regulations issued pursuant thereto."

Plaintiff's Response: OFCCP objects to this Request to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government's deliberative process privilege, the governmental privilege for investigative files and techniques, the government's informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP further objects on relevance grounds. Materials reflecting OFCCP's internal deliberations and processes in its investigation are not relevant because they will not show, one way or the other, whether Oracle violated its equal opportunity obligations, including through engaging in systemic compensation and hiring discrimination.

OFCCP additionally objects to this Request to the extent it seeks documents that were created after March 11, 2016, which was the date the Notice of Violation was issued, because any such documents were created in anticipation of litigation and are protected by the work product doctrine, trial preparation privilege, and/or attorney-client privilege.

OFCCP further objects to the phrase "related to" as overbroad and unduly burdensome.

Subject to and without waiving the foregoing objections, OFCCP will produce all non-privileged documents contained in OFCCP's investigative file for Oracle Redwood Shores (OFCCP Case No.: R00192699) (Siniscalco Declaration, Exhibit "B," pp. 53-54).

Discussion

This is not an allegation of an existing fact, but rather an allegation that Plaintiff expects Defendant to behave in a particular way in the future. But to the extent Plaintiff has in its possession, custody, or control documents which support the allegation quoted in the request (for example, documents showing existing policies which Plaintiff considers discriminatory), and if Plaintiff has not already produced those documents, it must do so within thirty days of the date of issuance of this order. Its failure to do so comprises an admission that it has no such documents in its possession, custody, or control.

Request No. 74

Defendant's Request No. 74: All DOCUMENTS RELATED to the allegation in Violation 2 of the NOV that YOU “analyzed Oracle’s compensation system and, through regression and other analysis, found statistically significant pay disparities based upon sex after controlling for legitimate explanatory factors.” This request includes but is not limited to, DOCUMENTS that RELATE to the “other analysis” (e.g. final versions, work papers, and drafts) and DOCUMENTS RELATED to any controls YOU employed to account for “legitimate explanatory factors.”

Plaintiff's Response: OFCCP objects to the entirety of this Interrogatory as it contains only a partial quote and may not reflect the intended allegations set forth in the NOV.

OFCCP objects to this Request to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government’s deliberative process privilege, the governmental privilege for investigative files and techniques, the government’s informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP further objects on relevance grounds. Materials reflecting OFCCP’s internal deliberations and processes in its investigation are not relevant because they will not show, one way or the other, whether Oracle violated its equal opportunity obligations, including through engaging in systemic compensation and hiring discrimination.

OFCCP additionally objects to this Request to the extent it seeks documents that were created after March 11, 2016, which was the date the Notice of Violation was issued, because any such documents were created in anticipation of litigation and are protected by the work product doctrine, trial preparation privilege, and/or attorney-client privilege.

OFCCP further objects to the phrase “related to” as overbroad and unduly burdensome.

Subject to and without waiving the foregoing objections, OFCCP will produce all non-privileged documents contained in OFCCP’s investigative file for Oracle Redwood Shores (OFCCP Case No.: R00192699) (Siniscalco Declaration, Exhibit “B,” pp. 54-55).

Discussion

OFCCP begins by suggesting, without directly alleging, that Defendant has misconstrued the cited language. If Plaintiff considers this a legitimate objection, it should disclaim Defendant's interpretation unequivocally, which, in its Response, it does not do. Accordingly, to the extent it has not already done so, Plaintiff must either 1) produce, within thirty days of the date of issuance of this Order, all documents in its possession, custody, or control upon which Plaintiff relied to make the allegations quoted in the request, or which support those allegations; or 2) expressly disclaim the allegation as quoted in the Request. If Plaintiff does not disclaim the allegation as quoted, and fails to produce such documents, it admits it has no such documents in its possession, custody, or control.

Request No. 75

Defendant's Request No. 75: All DOCUMENTS RELATED to the allegation in Violation 3 of the NOV that YOU "analyzed Oracle's compensation system and, through regression and other analysis, found statistically significant pay disparities based upon sex after controlling for legitimate explanatory factors." This request includes but is not limited to, DOCUMENTS that RELATE to the "other analysis" (e.g. final versions, work papers, and drafts) and DOCUMENTS RELATED to any controls YOU employed to account for "legitimate explanatory factors."

Plaintiff's Response: OFCCP objects to the entirety of this request as it does not reflect what OFCCP has alleged in Violation 3 of the NOV.

OFCCP objects to the entirety of this Interrogatory as it contains only a partial quote and may not reflect the intended allegations set forth in the NOV.

OFCCP objects to this Request to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government's deliberative process privilege, the governmental privilege for investigative files and techniques, the government's informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP further objects on relevance grounds. Materials reflecting OFCCP's internal deliberations and processes in its investigation are not relevant because they will not show, one way or the other, whether Oracle violated its equal opportunity obligations, including through engaging in systemic compensation and hiring discrimination.

OFCCP additionally objects to this Request to the extent it seeks documents that were created after March 11, 2016, which was the date the Notice of Violation was issued, because any such documents were created in anticipation of litigation and are protected by the work product doctrine, trial preparation privilege, and/or attorney-client privilege.

OFCCP further objects to the phrase "related to" as overbroad and unduly burdensome.

Subject to and without waiving the foregoing objections, OFCCP will produce all non-privileged documents contained in OFCCP's investigative file for Oracle Redwood Shores (OFCCP Case No.: R00192699) (Siniscalco Declaration, Exhibit "B," p. 55).

Discussion

Once again OFCCP begins by suggesting, without directly alleging, that Defendant has misconstrued the cited language. If Plaintiff considers this a legitimate objection, it should disclaim Defendant's interpretation unequivocally, which, in its Response, it does not do. Accordingly, to the extent it has not already done so, Plaintiff must either 1) produce, within thirty days of the date of issuance of this Order, all documents in its possession, custody, or control upon which Plaintiff relied to make the allegations quoted in the request, or which support the allegations; or 2) expressly disclaim the allegations as quoted in the Request. If Plaintiff does not disclaim the allegations, and fails to produce such documents, it admits it has no such documents in its possession, custody, or control.

Request No. 76

Defendant's Request No. 76: All DOCUMENTS RELATED to the allegation in Violation 4 of the NOV that YOU "analyzed Oracle's compensation system and, through regression and other analysis, found statistically significant pay disparities based upon sex after controlling for legitimate explanatory factors." This request includes but is not limited to, DOCUMENTS that RELATE to the "other analysis" (e.g. final versions, work papers, and drafts) and DOCUMENTS RELATED to any controls YOU employed to account for "legitimate explanatory factors."

Plaintiff's Response: OFCCP objects to the entirety of this request as it does not reflect what OFCCP has alleged in Violation 4 of the NOV.

OFCCP objects to the entirety of this Interrogatory as it contains only a partial quote and may not reflect the intended allegations set forth in the NOV.

OFCCP objects to this Request to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government's deliberative process privilege, the governmental privilege for investigative files and techniques, the government's informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP further objects on relevance grounds. Materials reflecting OFCCP's internal deliberations and processes in its investigation are not relevant because they will not show, one way or the other, whether Oracle violated its equal opportunity obligations, including through engaging in systemic compensation and hiring discrimination.

OFCCP additionally objects to this Request to the extent it seeks documents that were created after March 11, 2016, which was the date the Notice of Violation was issued, because

any such documents were created in anticipation of litigation and are protected by the work product doctrine, trial preparation privilege, and/or attorney-client privilege.

OFCCP further objects to the phrase “related to” as overbroad and unduly burdensome.

Subject to and without waiving the foregoing objections, OFCCP will produce all non-privileged documents contained in OFCCP’s investigative file for Oracle Redwood Shores (OFCCP Case No.: R00192699) (Siniscalco Declaration, Exhibit “B,” p. 56).

Discussion

Again, OFCCP suggests, without directly alleging, that Defendant has misconstrued the cited language. If Plaintiff considers this a legitimate objection, it should disclaim Defendant’s interpretation unequivocally, which, in its Response, it does not do. Accordingly, to the extent it has not already done so, Plaintiff must either 1) produce, within thirty days of the date of issuance of this Order, all documents in its possession, custody, or control upon which Plaintiff relied to make the allegations quoted in the request, or which support the allegations; or 2) expressly disclaim the allegations as quoted in the Request. If Plaintiff does not disclaim the allegation, and fails to produce such documents, it admits it has no such documents in its possession, custody, or control.

Request No. 77

Defendant’s Request No. 77: All DOCUMENTS RELATED to the allegation at page 2 of the NOV that YOU conducted an “analysis of Oracle’s applicant data and appropriate workforce availability statistics,” including but not limited to, all draft analysis, COMMUNICATIONS, considerations, factors, data and statistics considered, whether or not referred to in the NOV.

Plaintiff’s Response: OFCCP objects to the entirety of this Interrogatory as it contains only a partial quote and may not reflect the intended allegations set forth in the NOV.

OFCCP objects to this Request to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government’s deliberative process privilege, the governmental privilege for investigative files and techniques, the government’s informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP further objects on relevance grounds. Materials reflecting OFCCP’s internal deliberations and processes in its investigation are not relevant because they will not show, one way or the other, whether Oracle violated its equal opportunity obligations, including through engaging in systemic compensation and hiring discrimination.

OFCCP additionally objects to this Request to the extent it seeks documents that were created after March 11, 2016, which was the date the Notice of Violation was issued, because

any such documents were created in anticipation of litigation and are protected by the work product doctrine, trial preparation privilege, and/or attorney-client privilege.

OFCCP further objects to the phrase “related to” as overbroad and unduly burdensome.

OFCCP further objects to the phrase “communications” as overbroad and unduly burdensome.

OFCCP further objects to the phrases “considerations” and “considered” as vague and ambiguous.

OFCCP objects to this Interrogatory as overbroad with respect to the terms “facts,” “data” and “statistics” because these terms are not confined to the principal or material facts, data, or statistics of the case, but seeks the identity of each and every fact, data, or statistics, however minor, that may relate to the case.

Subject to and without waiving the foregoing objections, OFCCP will produce all non-privileged documents contained in OFCCP’s investigative file for Oracle Redwood Shores (OFCCP Case No.: R00192699) (Siniscalco Declaration, Exhibit “B,” pp. 56-57).

Discussion

The breadth of this request is troublesome, and the court sustains in part Plaintiff’s objection on that ground. Here, Defendant seeks to compel production of any document that played any role not only in supporting the allegations cited, but documents which are somehow “related” to the allegations, even if Plaintiff did not consider them relevant to the allegation Plaintiff ultimately made in the NOV. Defendant is not entitled to reconstruct the process by which Plaintiff ultimately chose to make the allegations set forth in the Complaint, or in the NOV.

Additionally, with respect to this Request, Plaintiff once again complains that Defendant’s statement of what the NOV alleges “may not reflect” what the NOV actually says (or was intended to say). Either it does, or it does not, and Plaintiff cannot preserve that argument for another day by making an ambiguous objection.

Accordingly, to the extent it has not already done so, Plaintiff must either 1) produce, within thirty days of the date of issuance of this Order, all documents in its possession, custody, or control upon which Plaintiff relied to make the allegations quoted in the request, or which support that allegations; or 2) expressly disclaim the allegations as quoted in the Request. If Plaintiff does not disclaim the allegations, and fails to produce such documents, it admits it has no such documents in its possession, custody, or control.

Request No. 78

Defendant's Request No. 78: All DOCUMENTS RELATED to the allegation in Attachment A of the NOV that "OFCCP analyzed Oracle's employees' compensation data by Oracle job function using a model that included the natural log of annual salary as a dependent variable," including but not limited to this analysis and all other models considered, conducted, or rejected, as well as different models, iterations and computations, whether or not referred to in the NOV.

Plaintiff's Response: OFCCP objects to the entirety of this Interrogatory as it contains only a partial quote and may not reflect the intended allegations set forth in the NOV.

OFCCP objects to this Request to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government's deliberative process privilege, the governmental privilege for investigative files and techniques, the government's informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP further objects on relevance grounds. Materials reflecting OFCCP's internal deliberations and processes in its investigation are not relevant because they will not show, one way or the other, whether Oracle violated its equal opportunity obligations, including through engaging in systemic compensation and hiring discrimination.

OFCCP additionally objects to this Request to the extent it seeks documents that were created after March 11, 2016, which was the date the Notice of Violation was issued, because any such documents were created in anticipation of litigation and are protected by the work product doctrine, trial preparation privilege, and/or attorney-client privilege.

OFCCP further objects to the phrase "related to" as overbroad and unduly burdensome.

OFCCP further objects to the phrase "considered" and "rejected" as vague and ambiguous.

Subject to and without waiving the foregoing objections, OFCCP will produce all non-privileged documents contained in OFCCP's investigative file for Oracle Redwood Shores (OFCCP Case No.: R00192699) (Siniscalco Declaration, Exhibit "B," pp. 57-58).

Discussion

The court sustains in part Plaintiff's objection to the breadth of this request. Here again, Defendant seeks to compel production of any document that played any role not only in supporting the allegations cited, but documents which are somehow "related" to the allegations, even if Plaintiff did not consider them relevant to the allegation Plaintiff ultimately made in the NOV. Defendant is not entitled to reconstruct the process by which Plaintiff ultimately chose to make the allegations set forth in the Complaint, or in the NOV.

Additionally, with respect to this Request, Plaintiff once again complains that Defendant's statement of what the NOV alleges "may not reflect" what the NOV actually says (or was intended to say). Either it does, or it does not, and Plaintiff cannot preserve that argument for another day by making an ambiguous objection.

Accordingly, to the extent it has not already done so, Plaintiff must either 1) produce, within thirty days of the date of issuance of this Order, all documents in its possession, custody, or control upon which Plaintiff relied to make the allegations quoted in the request, or which support those allegations; or 2) expressly disclaim the allegations as quoted in the Request. If Plaintiff does not disclaim the allegations, and fails to produce such documents, it admits it has no such documents in its possession, custody, or control.

Request No. 79

Defendant's Request No. 79: All COMMUNICATIONS transmitted to, from, or between OFCCP compliance officers regarding the NOV and/or Amended Complaint filed against ORACLE.

Plaintiff's Response: OFCCP objects to this Request to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government's deliberative process privilege, the governmental privilege for investigative files and techniques, the government's informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP further objects on relevance grounds. Materials reflecting OFCCP's internal deliberations and processes in its investigation are not relevant because they will not show, one way or the other, whether Oracle violated its equal opportunity obligations, including through engaging in systemic compensation and hiring discrimination.

OFCCP additionally objects to this Request to the extent it seeks documents that were created after March 11, 2016, which was the date the Notice of Violation was issued, because any such documents were created in anticipation of litigation and are protected by the work product doctrine, trial preparation privilege, and/or attorney-client privilege.

OFCCP further objects to the phrase "communications" as overbroad and unduly burdensome.

OFCCP further objects to the phrases "transmitted" and "regarding" as vague and ambiguous.

Subject to and without waiving the foregoing objections, OFCCP will produce all non-privileged documents contained in OFCCP's investigative file for Oracle Redwood Shores (OFCCP Case No.: R00192699) (Siniscalco Declaration, Exhibit "B," pp. 58-59).

Discussion

The court concludes, on the record before it, that this request is not proportional to the needs of the case. Defendant presumably already has in its possession any written communications from Plaintiff, and knows how it responded to those communications. Defendant is not entitled to unrestricted access to internal communications within OFCCP about the Notice of Violation or the Amended Complaint. Plaintiff need not produce additional documents in response to this request.

Request No. 80

Defendant's Request No. 80: All DOCUMENTS RELATED to YOUR use of pay analysis groups under Directive 307 to determine if employees are similarly situated for purposes of the alleged violations that are included in both the NOV and Amended Complaint.

Plaintiff's Response: OFCCP objects to this Request to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government's deliberative process privilege, the governmental privilege for investigative files and techniques, the government's informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP further objects on relevance grounds. Materials reflecting OFCCP's internal deliberations and processes in its investigation are not relevant because they will not show, one way or the other, whether Oracle violated its equal opportunity obligations, including through engaging in systemic compensation and hiring discrimination.

OFCCP additionally objects to this Request to the extent it seeks documents that were created after March 11, 2016, which was the date the Notice of Violation was issued, because any such documents were created in anticipation of litigation and are protected by the work product doctrine, trial preparation privilege, and/or attorney-client privilege.

OFCCP further objects to the phrase "related to" as overbroad and unduly burdensome.

Subject to and without waiving the foregoing objections, OFCCP will produce all non-privileged documents contained in OFCCP's investigative file for Oracle Redwood Shores (OFCCP Case No.: R00192699) (Siniscalco Declaration, Exhibit "B," pp. 59-60).

Discussion

Defendant is entitled to discover the factual bases for these allegations. Thus, to the extent it has not already done so, Plaintiff must produce, within thirty days of the date of issuance of this Order, all documents in its possession, custody, or control which show how Plaintiff used pay analysis groups under Directive 307 to determine that employees were "similarly situated" for purposes of the violations alleged in the NOV and the Amended Complaint. To the extent Plaintiff fails to

produce such documents, it admits it has no such documents in its possession, custody, or control.

Request No. 81

Defendant's Request No. 81: All DOCUMENTS RELATED to any statistical analysis performed that RELATES to any of the violations alleged in the NOV or Amended Complaint. This request includes but is not limited to COMMUNICATIONS with statisticians, data RELATED to explanatory pay factors, draft and final statistical models, and statistical models listed in attachments to the NOV to the extent they RELATE to violations alleged in the Amended Complaint.

Plaintiff's Response: OFCCP objects to this Request to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government's deliberative process privilege, the governmental privilege for investigative files and techniques, the government's informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP further objects on relevance grounds. Materials reflecting OFCCP's internal deliberations and processes in its investigation are not relevant because they will not show, one way or the other, whether Oracle violated its equal opportunity obligations, including through engaging in systemic compensation and hiring discrimination.

OFCCP additionally objects to this Request to the extent it seeks documents that were created after March 11, 2016, which was the date the Notice of Violation was issued, because any such documents were created in anticipation of litigation and are protected by the work product doctrine, trial preparation privilege, and/or attorney-client privilege.

OFCCP further objects to the phrase "communications" as overbroad and unduly burdensome.

OFCCP further objects to the phrase "related to" (including all variations) as overbroad and unduly burdensome.

Subject to and without waiving the foregoing objections, OFCCP will produce all non-privileged documents contained in OFCCP's investigative file for Oracle Redwood Shores (OFCCP Case No.: R00192699) (Siniscalco Declaration, Exhibit "B," p. 60).

Discussion

Defendant is not entitled to discover Plaintiff's attorney work product generally, but may discover the factual bases for the allegations in the Amended Complaint. Accordingly, to the extent it has not done so already, Plaintiff must produce, within thirty days of issuance of this Order, all documents in its possession, custody, or control which show statistical, arithmetical, or mathematical calculations

supporting the material allegations set forth in the Amended Complaint. To the extent Plaintiff fails to produce such documents, it admits it has no such documents in its possession, custody, or control.

Request No. 82

Defendant's Request No. 82: All DOCUMENTS RELATED to any onsite inspection of the HQCA worksite in connection with YOUR compliance review, including but not limited to all notes, memoranda, or other DOCUMENTS memorializing the inspection.

Plaintiff's Response: OFCCP objects to this Request to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government's deliberative process privilege, the governmental privilege for investigative files and techniques, the government's informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP further objects on relevance grounds. Materials reflecting OFCCP's internal deliberations and processes in its investigation are not relevant because they will not show, one way or the other, whether Oracle violated its equal opportunity obligations, including through engaging in systemic compensation and hiring discrimination.

OFCCP additionally objects to this Request to the extent it seeks documents that were created after March 11, 2016, which was the date the Notice of Violation was issued, because any such documents were created in anticipation of litigation and are protected by the work product doctrine, trial preparation privilege, and/or attorney-client privilege.

OFCCP further objects to the phrase "related to" as overbroad and unduly burdensome.

OFCCP further objects to the phrases "in connection with" and "memorializing" as vague and ambiguous.

Subject to and without waiving the foregoing objections, OFCCP will produce all non-privileged documents contained in OFCCP's investigative file for Oracle Redwood Shores (OFCCP Case No.: R00192699) (Siniscalco Declaration, Exhibit "B," pp. 60-61).

Discussion

The court overrules Plaintiff's objections to this request, except to sustain, in part, the objection on grounds of privilege and attorney work product. Exclusive of such materials, to the extent it has not already done so, Plaintiff must produce, within thirty days of the issuance of this Order, the documents requested.

Request No. 83

Defendant's Request No. 83: All DOCUMENTS RELATED to any interviews YOU conducted to the extent they RELATE to the allegations in the Complaint.

Plaintiff's Response: OFCCP objects to this Request to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government's deliberative process privilege, the governmental privilege for investigative files and techniques, the government's informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP further objects on relevance grounds. Materials reflecting OFCCP's internal deliberations and processes in its investigation are not relevant because they will not show, one way or the other, whether Oracle violated its equal opportunity obligations, including through engaging in systemic compensation and hiring discrimination.

OFCCP additionally objects to this Request to the extent it seeks documents that were created after March 11, 2016, which was the date the Notice of Violation was issued, because any such documents were created in anticipation of litigation and are protected by the work product doctrine, trial preparation privilege, and/or attorney-client privilege.

OFCCP further objects to the phrase "related to" as overbroad and unduly burdensome.

Subject to and without waiving the foregoing objections, OFCCP will produce all non-privileged documents contained in OFCCP's investigative file for Oracle Redwood Shores (OFCCP Case No.: R00192699) (Siniscalco Declaration, Exhibit "B," pp. 61-62).

Discussion

As phrased, this request does not describe a category of documents with reasonable particularity. But to the extent it has not already done so, Plaintiff must produce, within thirty days of issuance of this Order, all interview notes, interview summaries, or other writings which memorialize the content of any interviews which support the material factual allegations of the Amended Complaint (exclusive of attorney work product, such as Plaintiff's counsel's thoughts, impressions, or analyses of such interviews). To the extent it fails to do so, Plaintiff admits it has no such documents in its possession, custody, or control.

Request No. 84

Defendant's Request No. 84: All DOCUMENTS RELATED to any statements made to YOU by any THIRD PARTY, including but not limited to applicants or employees, regarding any of the allegations in Paragraphs 7 through 10 of the Amended Complaint.

Plaintiff's Response: OFCCP objects to this Request to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government's deliberative process privilege, the governmental privilege for investigative files and techniques,

the government's informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP further objects on relevance grounds. Materials reflecting OFCCP's internal deliberations and processes in its investigation are not relevant because they will not show, one way or the other, whether Oracle violated its equal opportunity obligations, including through engaging in systemic compensation and hiring discrimination.

OFCCP additionally objects to this Request to the extent it seeks documents that were created after March 11, 2016, which was the date the Notice of Violation was issued, because any such documents were created in anticipation of litigation and are protected by the work product doctrine, trial preparation privilege, and/or attorney-client privilege.

OFCCP further objects to the phrase "statements" as vague and ambiguous.

OFCCP further objects to the phrase "related to" as overbroad and unduly burdensome.

OFCCP further objects to the entirety of this request and overbroad and unduly burdensome.

Subject to and without waiving the foregoing objections, OFCCP will produce all non-privileged documents contained in OFCCP's investigative file for Oracle Redwood Shores (OFCCP Case No.: R00192699) (Siniscalco Declaration, Exhibit "B," pp. 62-63).

Discussion

As phrased, this request does not describe a category of documents with reasonable particularity. But, to the extent it has not already done so, Plaintiff must produce, within thirty days of issuance of this Order, any writings in its possession, custody, or control comprising or memorializing communications with third parties which support the material factual allegations of Paragraphs 7 through 10 of the Amended Complaint (exclusive of attorney work product, such as Plaintiff's counsel's thoughts, impressions, or analyses of such communications). To the extent Plaintiff fails to do so, it admits it has no such documents in its possession, custody, or control.

Request No. 85

Defendant's Request No. 85: All DOCUMENTS RELATED to any COMMUNICATIONS sent to or received by YOU from any THIRD PARTY RELATED to of *[sic]* the allegations in the NOV.

Plaintiff's Response: OFCCP objects to this Request to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government's deliberative process privilege, the governmental privilege for investigative files and techniques, the government's informant privilege, the trial preparation privilege described in Rule 26(b)(3)

of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP further objects on relevance grounds. Materials reflecting OFCCP's internal deliberations and processes in its investigation are not relevant because they will not show, one way or the other, whether Oracle violated its equal opportunity obligations, including through engaging in systemic compensation and hiring discrimination.

OFCCP additionally objects to this Request to the extent it seeks documents that were created after March 11, 2016, which was the date the Notice of Violation was issued, because any such documents were created in anticipation of litigation and are protected by the work product doctrine, trial preparation privilege, and/or attorney-client privilege.

OFCCP further objects to the phrase "communications" as overbroad and unduly burdensome.

OFCCP further objects to the phrase "related to" as overbroad and unduly burdensome.

OFCCP further objects to the entirety of this request and overbroad and unduly burdensome.

Subject to and without waiving the foregoing objections, OFCCP will produce all non-privileged documents contained in OFCCP's investigative file for Oracle Redwood Shores (OFCCP Case No.: R00192699) (Siniscalco Declaration, Exhibit "B," pp. 63).

Discussion

As phrased, this request does not describe a category of documents with reasonable particularity. But, to the extent it has not already done so, Plaintiff must produce, within thirty days of issuance of this Order, any writings in its possession, custody, or control comprising or memorializing communications with third parties which support the material factual allegations of the Notice of Violation. To the extent Plaintiff fails to do so, it admits it has no such documents in its possession, custody, or control.

Request No. 86

Defendant's Request No. 86: All DOCUMENTS RELATED to any anecdotal evidence of possible discrimination by ORACLE at HQCA.

Plaintiff's Response: OFCCP objects to this Request to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government's deliberative process privilege, the governmental privilege for investigative files and techniques, the government's informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP further objects on relevance grounds. Materials reflecting OFCCP's internal deliberations and processes in its investigation are not relevant because they will not show, one way or the other, whether Oracle violated its equal opportunity obligations, including through engaging in systemic compensation and hiring discrimination.

OFCCP additionally objects to this Request to the extent it seeks documents that were created after March 11, 2016, which was the date the Notice of Violation was issued, because any such documents were created in anticipation of litigation and are protected by the work product doctrine, trial preparation privilege, and/or attorney-client privilege.

OFCCP further objects to the phrase "related to" as overbroad and unduly burdensome.

OFCCP further objects to the entirety of this request and overbroad and unduly burdensome.

Subject to and without waiving the foregoing objections, OFCCP will produce all non-privileged documents contained in OFCCP's investigative file for Oracle Redwood Shores (OFCCP Case No.: R00192699) (Siniscalco Declaration, Exhibit "B," pp. 63-64).

Discussion

Plaintiff itself refers to "anecdotal evidence" in its answer to Interrogatory No. 17, as more fully discussed below. Accordingly, to the extent it has not already done so, Plaintiff must produce, within thirty days of the date of issuance of this Order, any documents setting forth anecdotal evidence of discrimination at Oracle upon which Plaintiff relied in making the allegations of discrimination set forth in the NOV or in the Amended Complaint, or to which Plaintiff referred in its answer to Interrogatory No. 17, as discussed below. To the extent Plaintiff fails to produce such documents, it admits it has no such documents in its possession, custody, or control.

II. **INTERROGATORIES**

Oracle also asks the court to compel further answers to twenty-five interrogatories it has propounded to Plaintiff. Once again, Oracle does not provide the court with the original interrogatories, which presumably would have included the definitions of capitalized terms. The court accordingly draws the text of the interrogatories from Plaintiff's responses, attaches as Exhibit "C" to the Declaration of Gary Siniscalco in support of the motion.

In order to avoid redundancy, the court first considers a few matters which arise repeatedly.

1. Plaintiff – for example, in a repeated paragraph which appears, *inter alia*, as the second paragraph in its response to Interrogatory No. 2 – frequently com-

plains Defendant has not appropriately responded to Plaintiff's discovery. Assuming for the moment this is true, Plaintiff is free to seek the appropriate remedy. But Plaintiff may not use Defendant's conduct as a license to respond in kind, and there is no need to detail Defendant's bad conduct in these answers.

2. If an interrogatory asks for facts supporting an allegation, the answering party does not satisfy its obligation to answer the question merely by citing the questioner to the Amended Complaint or the Notice of Violation.

3. The court does not construe any interrogatory as seeking immaterial information, or information in the possession of the asking party and unknown to the answering party.

4. While statistical or other analyses of factual data may ordinarily be privileged from disclosure as attorney work product or otherwise, such privilege does not attach to analyses that form the basis for allegations in the Amended Complaint, or the results of which have been publicly disclosed. With respect to the Amended Complaint, Plaintiff has represented to the court, under Fed. R. Civ. Pro. Rule 11(b)(3), that the factual contentions of the Amended Complaint have evidentiary support. It must disclose that evidentiary support when asked.

5. There is a limitation on the number of interrogatories a party may serve under Fed. R. Civ. Pro. Rule 33(a)(1), and "discrete subparts" of a question count as a separate question. But in the court's view, asking a person to state his or her "name *and* address" does not comprise a two-part question. The court concludes Defendant has propounded only twenty-five interrogatories, and has not exceeded the Rule 33 limit which applies in the absence of a stipulation or court order to the contrary.

Interrogatory No. 1

Defendant's Interrogatory No. 1: Identify each PERSON by name, title, role, and last known contact information who participated in the "COMPLIANCE REVIEW" referenced in Paragraph 6 of the Amended Complaint, whether by way of providing interviews, conducting interviews, providing information, requesting information, or accessing or reviewing the information provided.

Plaintiff's Response: OFCCP incorporates the general objections stated above, and further objects to this Interrogatory to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government's deliberative process privilege, the governmental privilege for investigative files and techniques, the government's informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP further objects to the term “participated in” as vague and ambiguous because it is not clear what constitutes participation. In the widest sense of the term, participation might include individuals who had no meaningful role in the Compliance Review, such as technical personnel that maintain systems relevant to the investigation but have no knowledge of the actual investigation. OFCCP also objects to the term “role” as vague and ambiguous. For example, “role” could mean the actions that the person took or the person’s formal title.

OFCCP also objects to the Interrogatory as being unduly burdensome, overly broad, not relevant, oppressive and not proportional to the case because for OFCCP to fully answer this Interrogatory, OFCCP would need to literally interview thousands of Oracle employees to include employees in supervisory and management positions to ascertain everyone who provided information that OFCCP obtained during the compliance review. This would include people involved with the databases, who built spreadsheets or populated some, who were involved in collecting documents, etc.

OFCCP again objects to the Interrogatory as being unduly burdensome, overly broad, not relevant, oppressive and not proportional to the case for OFCCP to interview potentially thousands of employees to obtain their last known contact information when Oracle is already in possession of this information.

OFCCP further objects to the Interrogatory because it seeks each individual’s contact information for persons represented by counsel. OFCCP’s personnel (current or former) may be contacted through OFCCP’s counsel at the Office of the Solicitor.

OFCCP still further objects because the Interrogatory calls for speculation if Oracle does not make everyone who was involved in providing information that OFCCP received during the compliance review, to include managers and supervisory personnel, available to OFCCP so that OFCCP can fully identify everyone who provided information for the compliance review.

Subject to and without waiving the foregoing objections, OFCCP responds that the following persons, excluding OFCCP attorneys at the Office of the Solicitor, that may have, in some capacity, “participated in” or “provid[ed] information” for the compliance review include Oracle’s management and supervisory employees, people in Oracle’s human resources and/or personnel departments, Oracle employees or agents involved in its compliance with the Executive Order and implementing regulations identified in this litigation, people involved in securing and processing information provided to OFCCP, etc., and the following OFCCP personnel.

1. Janeete Wipper, Regional Director
2. Jane Suhr, Deputy Regional Director
3. Robert Doles, District Director
4. Hea Jung Atkins, Special Assistant
5. Brian Mikel, Area Office Director

6. Hoan Luong, Compliance Officer
7. Anna Liu, Compliance Officer
8. Jennifer Yeh, Compliance Officer
9. Milton Crossland, Compliance Officer
10. Molly Almeida, Compliance Officer
11. Francisco Melara, Regional Liason
12. Shirong (Andy) Leu, Statistician
13. Robert LaJeunesse, Branch Chief of Expert Services

Discussion

The court concludes this interrogatory requires Plaintiff to identify all persons currently known to Plaintiff who are, or at the time of the compliance review were, employees of Plaintiff, and who have meaningful first-hand knowledge of the compliance review. The answer Plaintiff has provided may be sufficient. If Plaintiff has omitted any such person from its answer, it must supplement the answer within thirty days of the date of issuance of this Order.

Interrogatory No. 2

Defendant's Interrogatory No. 2: State all facts that support the allegation in Paragraph 7 of the Amended Complaint that "Oracle discriminated against qualified female employees in its Information Technology, Product Development and Support lines of business or job functions at Oracle Redwood Shores based upon sex by paying them less than comparable males employed in similar roles."

Plaintiff's Response: OFCCP incorporates the general objections stated above, and further objects to this Interrogatory to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government's deliberative process privilege, the governmental privilege for investigative files and techniques, the government's informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP objects to this contention Interrogatory as overly broad and unduly burdensome because OFCCP should be provided the opportunity to conduct discovery and maintain flexibility about its contentions before responding to contention interrogatories, as the information necessary to respond to this Interrogatory becomes more readily available. See cases cited in General Objection No. 1. OFCCP further objects to this Interrogatory as premature because

OFCCP has only obtained minimal discovery from Oracle because Oracle refused to provide a person for the Rule 30(b)(6) deposition that OFCCP noticed, refused to produce any documents pending a protective order to include not even producing responsive documents that were not covered by the protective order, and has produced information responsive to only a fraction of OFCCP's discovery requests. Furthermore, OFCCP objects to this premature interrogatory because Oracle is attempting to benefit from the unclean hands of repeatedly failing to produce requested information during the compliance review and obstructing OFCCP's ability to acquire this same information during discovery. For example, as repeatedly identified in the documents that OFCCP produced during this litigation and the underlying investigation, Oracle failed to produce: applicant and hiring data, such as data regarding name of school attended and prior degrees earned, years of prior work experience and prior salary before being hired by Oracle, compensation data such as the 1/13/13 snapshot, Oracle's pay equity analysis, employee personnel actions, employee contact information, data for the 2012 applicant flow log, internal complaints, external arbitration complaints, documents regarding compensation and hiring, etc. Additionally, in this litigation, Oracle, in its written document production responses identified that it would not be producing any responsive documents for 55 requests or 60% of OFCCP's document production requests. This failure to produce is in addition to refusing to produce a person for the Rule 30(b)(6) deposition that OFCCP noticed. Moreover, this Interrogatory is premature to the extent it will be the subject of forthcoming expert testimony. Finally, OFCCP objects to this interrogatory insofar as it seeks disclosure of information protected under Fed. R. Civ. P. 26(b)(4)(D).

OFCCP objects to this Interrogatory as overly overbroad, unduly burdensome, oppressive, not relevant, and not proportional to the needs of the case with respect to the term "all facts" because this term is not confined to the principal or material facts of the case, but seeks the identity of each and every fact, however minor, that may relate to the case.

Subject to and without waiving the foregoing objections, OFCCP incorporates its statements in the Amended Complaint and refers Oracle to the responsive documents that it produced during discovery, including, but not limited to, the NOV and Attachment, and the compensation database that Oracle provided to OFCCP for the 2014 snapshot. OFCCP further responds that that *[sic]* upon initiating a compliance review of Oracle's headquarters in Redwood Shores, California, OFCCP conducted a comprehensive analysis and evaluation of the hiring and employment practices of Oracle, the written affirmative action program (AAP), and the results of the affirmative action efforts undertaken by Oracle, including a desk audit, on-site review and off-site analysis.

Specifically, OFCCP analyzed and evaluated Oracle's AAP and supporting documentation, and other documents related to the contractor's personnel policies and employment actions that may be relevant to a determination of whether Oracle complied with the requirements of the Executive Order, VEVRRRA, Section 503 and their implementing regulations, including but not limited to: employment policies, practices, records, and actions; management, human resources, non-management employee, and former employee statements; employee complaints; one-year of individual employee compensation data and other evidence; Labor Condition Appli-

cations; Oracle's compliance history by reviewing OFCCP internal database system, and review any information received from EEOC, State or local FEP, and/or other labor and employment agencies, such as the Department of Labor's Veterans' Employment and Training Service and Wage and Hour Division, and publically available company information; and Oracle's hiring data, workforce data and appropriate labor market workforce availability statistics. OFCCP also obtain and analyzed any complaints filed against Oracle through the Equal Employment Opportunity Commission (EEOC), the State and/or Local Fair Employment Practice (FEP) agency, and/or other governmental agencies. Additionally, OFCCP requested additional information from Oracle during the compliance review that Oracle withheld (*see* Amended Complaint ¶¶ 11-15) that is relevant to a determination of whether Oracle complied with the requirements of the Executive Order and the regulations.

OFCCP further responds that during the compliance review of Oracle headquarters, OFCCP evaluated and analyzed Oracle's compensation information and evidence gathered in the investigation and found statistically significant pay disparities based upon gender between females and males after controlling for legitimate explanatory factors in the Information Technology, Product Development, and Support lines of business. Within these lines of business, OFCCP controlled for the following factors: job title, full-time/part-time status, exempt status, global career level, job specialty, estimated prior work experience, and company tenure-work experience at Oracle. Even after controlling for such factors in the analysis, female employees were paid significantly less than male employees in the Information Technology, Product Development, and Support lines of business. OFCCP will supplement this response as more documents and data are produced during discovery under the supervision of the office of administrative law judges.

Discussion

The court specifically overrules the objection that this interrogatory is "overly overbroad" – as opposed, presumably, to "acceptably overbroad."

Within thirty days of the date of issuance of this Order, Plaintiff must amend this Response to specify the facts known to it which support the quoted allegation. The response set forth above merely suggests that Plaintiff drew conclusions from sources it has identified. It must specify the conclusions it drew and explain how the data supports those conclusions.

Interrogatory No. 3

Defendant's Interrogatory No. 3: Identify by name and last known contact information each PERSON with knowledge of the facts alleged in Paragraph 7 of the Amended Complaint, including the nature of the facts of which the PERSON identified has knowledge.

Plaintiff's Response: OFCCP incorporates the general objections stated above, and further objects to this Interrogatory to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government's deliberative process privi-

lege, the governmental privilege for investigative files and techniques, the government's informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP further objects to the Interrogatory on the basis that it is compound, vague and ambiguous as to "nature of the facts," "knowledge of the facts," and "contact information." "Nature of facts" is so unintelligible that it is unclear what Oracle is seeking. For example, is nature of the facts the date the person acquired the facts, how he acquired the facts, who he acquired the facts from, the contents of the facts, when the facts occurred, who observed or witnessed the facts, etc. In terms of knowledge of the facts: it is not known if Oracle was referring to personal knowledge, constructive knowledge, third-hand knowledge, hearsay knowledge, etc. It is not clear what Oracle means by contact information, is it a person [sic] home telephone number, is it a person's business address, etc. [sic]

OFCCP also objects to the Interrogatory as being unduly burdensome, overly broad, not relevant, oppressive and not proportional to the case because for OFCCP to truly answer this request, OFCCP would need to literally interview thousands of Oracle employees to include employees in supervisory and management positions to ascertain everyone who has knowledge of the discrimination.

OFCCP again objects to the Interrogatory as being unduly burdensome, overly broad, not relevant, oppressive and not proportional to the case for OFCCP to interview potentially thousands of employees to obtain their last known contact information when Oracle is already in possession of this information.

OFCCP still further objects because the Interrogatory calls for speculation if Oracle does not make everyone available to OFCCP who might have knowledge of the discrimination so that OFCCP can identify all of the people who have knowledge of the discrimination.

OFCCP objects to this Interrogatory as overly overbroad, unduly burdensome, oppressive, not relevant, and not proportional to the needs of the case with respect to the term "all facts" if the nature of the facts includes every fact, however, minor [sic] that the person knows regardless of how the person obtained knowledge of the alleged fact.

OFCCP objects to this interrogatory as it is making two distinct information requests in one interrogatory – identify the name, job title and contact information of the person with knowledge, and the content/nature of this knowledge. OFCCP will count this as two interrogatories.

To the extent that the following objection that Defendant used during written discovery is a valid objection since the parties are meeting and conferring about it: the request/Interrogatory "requires [the party answering the written discovery] to refer to materials

outside of the request itself,” OFCCP makes this objection here because this Interrogatory referred to materials outside of the Interrogatory itself.¹

OFCCP further objects to the Interrogatory to the extent it seeks each individual’s contact information for individuals that are represented by counsel. OFCCP’s personnel (current or former) may be contacted through OFCCP’s counsel at the Office of the Solicitor.

Subject to and without waiving the foregoing objections, OFCCP responds that the following persons, excluding OFCCP attorneys at the Office of the Solicitor, may have knowledge of the facts giving rise to the allegations made in the Amended Complaint include *[sic]*: Oracle employees, supervisors and managers employed by Oracle during the review period; former employees, supervisors and managers of Oracle; and OFCCP personnel listed in response to Interrogatory No. 1. OFCCP will supplement this response as more documents and data are produced during discovery under the supervision of the office of administrative law judges.

Discussion

The principal problem with this interrogatory is that it asks Plaintiff to identify potential witnesses with knowledge of “the facts alleged in Paragraph 7 of the Amended Complaint.” Paragraph 7 of the Amended Complaint alleges numerous facts. Despite this issue, to the extent it has not already done so, Plaintiff must, within thirty days of issuance of this Order, identify all persons (other than persons affiliated with Defendant) who have knowledge of the material facts alleged in Paragraph 7 of the Amended Complaint.

Interrogatory No. 4

Defendant’s Interrogatory No. 4: As to each qualified female employee allegedly discriminated against as referenced in Paragraph 7 of the Amended Complaint, identify by name and job title the comparable male or males employed in similar roles.

Plaintiff’s Response: OFCCP incorporates the general objections stated above, and further objects to this Interrogatory to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government’s deliberative process privilege, the governmental privilege for investigative files and techniques, the government’s informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

¹ The court would be profoundly grateful to both parties if they would limit their objections to those they genuinely believe, in good faith, to apply. Making an objection which may, or may not be, valid, simply because one’s opponent made it elsewhere, imposes upon the court, and reflects poorly on the professional character of the attorney who raises it. The court has made it clear to counsel for both parties in this case that it expects the highest degree of professional conduct and courtesy from them.

OFCCP objects to this contention Interrogatory as overly broad and unduly burdensome because OFCCP should be provided the opportunity to conduct discovery and maintain flexibility about its contentions before responding to contention interrogatories, as the information necessary to respond to this Interrogatory becomes more readily available. See cases cited in General Objection No. 1. OFCCP further objects to this Interrogatory as premature because OFCCP has only obtained minimal discovery from Oracle because Oracle refused to provide a person for the Rule 30(b)(6) deposition that OFCCP noticed, refused to produce any documents pending a protective order to include not even producing responsive documents that were not covered by the protective order, and has produced information responsive to only a fraction of OFCCP's discovery requests. Furthermore, OFCCP objects to this premature interrogatory because Oracle is attempting to benefit from the unclean hands of repeatedly failing to produce requested information during the compliance review and obstructing OFCCP's ability to acquire this same information during discovery. For example, as repeatedly identified in the documents that OFCCP produced during this litigation and the underlying investigation, Oracle failed to produce: applicant and hiring data, such as data regarding name of school attended and prior degrees earned, years of prior work experience and prior salary before being hired by Oracle, compensation data such as the 1/13/13 snapshot, Oracle's pay equity analysis, employee personnel actions, employee contact information, data for the 2012 applicant flow log, internal complaints, external arbitration complaints, documents regarding compensation and hiring, etc. Additionally, in this litigation, Oracle, in its written document production responses identified that it would not be producing any responsive documents for 55 requests or 60% of OFCCP's document production requests. This failure to produce is in addition to refusing to produce a person for the Rule 30(b)(6) deposition that OFCCP noticed. Moreover, this Interrogatory is premature to the extent it will be the subject of forthcoming expert testimony. Finally, OFCCP objects to this interrogatory insofar as it seeks disclosure of information protected under Fed. R. Civ. P. 26(b)(4)(D).

To the extent that the following objection that Defendant used during written discovery is a valid objection since the parties are meeting and conferring about it: the request/Interrogatory "requires [the party answering the written discovery] to refer to materials outside of the request itself," OFCCP makes this objection here because this Interrogatory referred to materials outside of the Interrogatory itself.²

Subject to and without waiving the foregoing objections, OFCCP incorporated herein its response to Interrogatory No. 2, its statements in the Amended Complaint and refers Oracle to the responsive documents that it produced during discovery, including, but not limited to, the NOV and Attachment, and the compensation database that Oracle provided to OFCCP for the 2014 snapshot. The compensation database provided to OFCCP by Oracle lists the names of male employees in the Information Technology, Support, and Product Development lines of business, as well as their job titles that OFCCP alleges were comparable male employees in similar roles to female employees based on the snapshot of data Oracle provided as of January 1, 2014. The compensation database provided to OFCCP by Oracle also lists the names of females

² *Id.*

in the Information Technology, Support, and Product Development lines of business, as well as their job titles that OFCCP alleges were victims of discrimination based on the snapshot of data Oracle provided as of January 1, 2014. As more data is produced, including data from 2013 and since the snapshot from January 1, 2014 through the present, OFCCP expects that additional males, as well as female victims of discrimination, will be identified. OFCCP will supplement this response as more documents and data are produced during discovery under the supervision of the office of administrative law judges.

Discussion

Plaintiff's answer seems to rest on the assumption that the names and job titles of the described persons are expressly set forth in the compensation data base, standing alone. The court, of course, has not seen the compensation data base. If a third person can determine, merely by consulting the compensation data base, the names and job titles of qualified female persons whom the Plaintiff believes were discriminated against, as alleged in paragraph 7 of the Amended Complaint, then Plaintiff's answer is sufficient. But such a database may well include the names and job titles of other people as well. It might not identify persons by gender or ethnicity. It may not specifically show which qualified female employees Plaintiff regards as victims of discrimination, as distinct from other qualified female employees. Accordingly, if for these, or any other, reasons, the compensation data base, standing alone, does not readily identify the names and job titles of the persons who are the subject of this interrogatory, then Plaintiff, within thirty days of the issuance of this Order, must specifically identify those people by name and job title.

Interrogatory No. 5

Defendant's Interrogatory No. 5: For each qualified female employee allegedly discriminated against as referenced in Paragraph 7 of the Amended Complaint, state all facts that support the allegation that the male(s) identified as similarly situated and comparable were similarly situated and comparable.

Plaintiff's Response: OFCCP incorporates the general objections stated above, and further objects to this Interrogatory to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government's deliberative process privilege, the governmental privilege for investigative files and techniques, the government's informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP objects to this contention Interrogatory as overly broad and unduly burdensome because OFCCP should be provided the opportunity to conduct discovery and maintain flexibility about its contentions before responding to contention interrogatories, as the information necessary to respond to this Interrogatory becomes more readily available. See cases cited in General Objection No. 1. OFCCP further objects to this Interrogatory as premature because

OFCCP has only obtained minimal discovery from Oracle because Oracle refused to provide a person for the Rule 30(b)(6) deposition that OFCCP noticed, refused to produce any documents pending a protective order to include not even producing responsive documents that were not covered by the protective order, and has produced information responsive to only a fraction of OFCCP's discovery requests. Furthermore, OFCCP objects to this premature interrogatory because Oracle is attempting to benefit from the unclean hands of repeatedly failing to produce requested information during the compliance review and obstructing OFCCP's ability to acquire this same information during discovery. For example, as repeatedly identified in the documents that OFCCP produced during this litigation and the underlying investigation, Oracle failed to produce: applicant and hiring data, such as data regarding name of school attended and prior degrees earned, years of prior work experience and prior salary before being hired by Oracle, compensation data such as the 1/13/13 snapshot, Oracle's pay equity analysis, employee personnel actions, employee contact information, data for the 2012 applicant flow log, internal complaints, external arbitration complaints, documents regarding compensation and hiring, etc. Additionally, in this litigation, Oracle, in its written document production responses identified that it would not be producing any responsive documents for 55 requests or 60% of OFCCP's document production requests. This failure to produce is in addition to refusing to produce a person for the Rule 30(b)(6) deposition that OFCCP noticed. Moreover, this Interrogatory is premature to the extent it will be the subject of forthcoming expert testimony. Finally, OFCCP objects to this interrogatory insofar as it seeks disclosure of information protected under Fed. R. Civ. P. 26(b)(4)(D).

OFCCP objects to this Interrogatory as overly overbroad, unduly burdensome, oppressive, not relevant, and not proportional to the needs of the case with respect to the term "all facts" because this term is not confined to the principal or material facts of the case, but seeks the identity of each and every fact, however minor, that may relate to the case.

To the extent that the following objection that Defendant used during written discovery is a valid objection since the parties are meeting and conferring about it: the request/Interrogatory "requires [the party answering the written discovery] to refer to materials outside of the request itself," OFCCP makes this objection here because this Interrogatory referred to materials outside of the Interrogatory itself.³

Subject to and without waiving the foregoing objections, OFCCP incorporates herein its responses to Interrogatory Nos. 2 and 4, its statements in the Amended Complaint and refers Oracle to the responsive documents that it produced during discovery, including, but not limited to, the NOV and Attachment, and the compensation database that Oracle provided to OFCCP for the 2014 snapshot. The compensation database provided to OFCCP by Oracle lists the names of male employees in the Information Technology, Support, and Product Development lines of business, as well as their job titles that OFCCP alleges were comparable male employees in similar roles to female employees based on the snapshot of data Oracle provided as of January 1, 2014. The compensation database provided to OFCCP by Oracle also lists the names of females in the Information Technology, Support, and Product Development lines of

³ *Id.*

business, as well as their job titles that OFCCP alleges were victims of discrimination based on the snapshot of data Oracle provided as of January 1, 2014. OFCCP further responds that it determined which roles were similar by reviewing evidence gathered during the compliance review. As more data is produced, including data from 2013 and since the snapshot from January 1, 2014, through the present, OFCCP expects that additional comparable males, as well female victims of discrimination [*sic*], will be identified. OFCCP will supplement this response as more documents and data are produced during discovery under the supervision of the office of administrative law judges.

Discussion

Assuming the compensation database, standing alone, adequately identifies the persons Plaintiff considered “similarly situated and comparable,” Plaintiff must nevertheless, within thirty days of the date of issuance of this Order, state all facts known to it which support the conclusion that those persons were in fact “similarly situated and comparable.” Additionally, if the compensation database, standing alone, does not adequately identify those persons (*see* the court’s discussion of Interrogatory No. 4 above), Plaintiff must do so specifically, within the same time limit.

Interrogatory No. 6

Defendant’s Interrogatory No. 6: State all facts that support the table contained in Paragraph 7, which table contains the headings “Class,” “Number of Female Class Members,” and “Standard Deviations,” including the statistical data used, the analysis and methodologies used, the computations used to determine the standard deviations, and the identities of the female employees.

Plaintiff’s Response: OFCCP incorporates the general objections stated above, and further objects to this Interrogatory to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government’s deliberative process privilege, the governmental privilege for investigative files and techniques, the government’s informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP objects to this Interrogatory to the extent it implies that OFCCP was required to allege statistical data. Statistical data supporting OFCCP’s claims of discrimination will be developed and refined, during and after discovery. Tying OFCCP to a particular set of statistics at the pleading stage would be both unfair and inefficient. The time for assessing OFCCP’s statistical evidence, including whether it accounts for all relevant variables, is after discovery is closed and the case is tried. Further, it is impossible for OFCCP to make any refinements to statistics in this case until Defendants produce the myriad relevant records they refused to provide to OFCCP and have not yet produced in discovery.

OFCCP objects to this contention Interrogatory as overly broad and unduly burdensome because OFCCP should be provided the opportunity to conduct discovery and maintain flexibility about its contentions before responding to contention interrogatories, as the information necessary to respond to this Interrogatory becomes more readily available. See cases cited in General Objection No. 1. OFCCP further objects to this Interrogatory as premature because OFCCP has only obtained minimal discovery from Oracle because Oracle refused to provide a person for the Rule 30(b)(6) deposition that OFCCP noticed, refused to produce any documents pending a protective order to include not even producing responsive documents that were not covered by the protective order, and has produced information responsive to only a fraction of OFCCP's discovery requests. Furthermore, OFCCP objects to this premature interrogatory because Oracle is attempting to benefit from the unclean hands of repeatedly failing to produce requested information during the compliance review and obstructing OFCCP's ability to acquire this same information during discovery. For example, as repeatedly identified in the documents that OFCCP produced during this litigation and the underlying investigation, Oracle failed to produce: applicant and hiring data, such as data regarding name of school attended and prior degrees earned, years of prior work experience and prior salary before being hired by Oracle, compensation data such as the 1/13/13 snapshot, Oracle's pay equity analysis, employee personnel actions, employee contact information, data for the 2012 applicant flow log, internal complaints, external arbitration complaints, documents regarding compensation and hiring, etc. Additionally, in this litigation, Oracle, in its written document production responses identified that it would not be producing any responsive documents for 55 requests or 60% of OFCCP's document production requests. This failure to produce is in addition to refusing to produce a person for the Rule 30(b)(6) deposition that OFCCP noticed. Moreover, this Interrogatory is premature to the extent it will be the subject of forthcoming expert testimony. Finally, OFCCP objects to this interrogatory insofar as it seeks disclosure of information protected under Fed. R. Civ. P. 26(b)(4)(D).

OFCCP also objects to the term "Paragraph 7" as vague and ambiguous because Oracle did not identify the document containing the paragraph 7 to which it refers. OFCCP likewise objects to the terms "statistical data used," "the analysis and methodologies used," "the computations used." [Sic] For these latter three terms the context of "used" is not known and it is not clear which "statistical data," "analysis," "methodologies" and "computations" that Oracle is referring [sic].

OFCCP objects to this Interrogatory as overly overbroad, unduly burdensome, oppressive, not relevant, and not proportional to the needs of the case with respect to the term "all facts" because this term is not confined to the principal or material facts of the case, but seeks the identity of each and every fact, however minor, that may relate to the case.

OFCCP further objects to producing any in-house statistical analyses performed to include the data, methodology and computations that OFCCP employed. This information is protected under the various privileges asserted above, is irrelevant, and is not proportional to the needs of the case.

To the extent that the following objection that Defendant used during written discovery is a valid objection since the parties are meeting and conferring about it: the request/Interrogatory “requires [the party answering the written discovery] to refer to materials outside of the request itself,” OFCCP makes this objection here because this Interrogatory referred to materials outside of the Interrogatory itself.⁴

Subject to and without waiving the foregoing objections, OFCCP incorporates herein its responses to Interrogatory Nos. 2, 4 and 5, its statements in the Amended Complaint and refers Oracle to the responsive documents that it produced during discovery, including, but not limited to, the NOV and Attachment, and the compensation database that Oracle provided to OFCCP for the 2014 snapshot. The compensation database provided to OFCCP by Oracle lists the names of male employees in the Product Development, Support and Information Technology lines of business, as well as their job titles that OFCCP alleges were comparable male employees in similar roles to female employees based on the snapshot of data Oracle provided as of January 1, 2014. The compensation database provided to OFCCP by Oracle also lists the names of females in the Product Development, Support and Information Technology lines of business, as well as their job titles, that OFCCP alleges were victims of discrimination based on the snapshot of data Oracle provided as of January 1, 2014. OFCCP further responds that during the compliance review, OFCCP evaluated and analyzed Oracle’s compensation information and found statistically significant pay disparities adverse to female employees after controlling for legitimate explanatory factors in the duct [*sic*] Development, Support and Information Technology lines of business. Within these lines of business, OFCCP controlled for the following factors: job title, full-time status, exempt status, global career level, job specialty, estimated prior work experience, and company tenure/work experience within Oracle. Even after controlling for such factors in the analysis, female employees were paid significantly less than in the Product Development line of business at -8.41 standard deviations, the Support line of business at -3.67 standard deviations and the Information Technology line of business at -2.71 standard deviations. As more data is produced, including data from 2013 and since the snapshot from January 1, 2014 through the present, OFCCP expects that additional comparable males, as well as female victims of discrimination, will be identified in the Product Development, Support and Information Technology lines of business. OFCCP will supplement this response as more documents and data are produced during discovery under the supervision of the office of administrative law judges.

Discussion

In addition to the answer set forth above, within thirty days of the date of issuance of this Order, Plaintiff must give Defendant a concise explanation of how it calculated the standard deviations set forth in the table at Paragraph 7 of the Amended Complaint in sufficient detail to allow Defendant to check the mathematical accuracy of those calculations. Plaintiff must also describe how it identified persons as belonging to each enumerated class.

⁴ *Id.*

Interrogatory No. 7

Defendant's Interrogatory No. 7: State all facts that support the allegation in Paragraph 8 of the Amended Complaint that "Oracle discriminated against qualified African Americans in Product Development roles at Oracle Redwood Shores based upon race by paying them less than comparable Whites employed in similar roles."

Plaintiff's Response: OFCCP incorporates the general objections stated above, and further objects to this Interrogatory to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government's deliberative process privilege, the governmental privilege for investigative files and techniques, the government's informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP objects to this contention Interrogatory as overly broad and unduly burdensome because OFCCP should be provided the opportunity to conduct discovery and maintain flexibility about its contentions before responding to contention interrogatories, as the information necessary to respond to this Interrogatory becomes more readily available. See cases cited in General Objection No. 1. OFCCP further objects to this Interrogatory as premature because OFCCP has only obtained minimal discovery from Oracle because Oracle refused to provide a person for the Rule 30(b)(6) deposition that OFCCP noticed, refused to produce any documents pending a protective order to include not even producing responsive documents that were not covered by the protective order, and has produced information responsive to only a fraction of OFCCP's discovery requests. Furthermore, OFCCP objects to this premature interrogatory because Oracle is attempting to benefit from the unclean hands of repeatedly failing to produce requested information during the compliance review and obstructing OFCCP's ability to acquire this same information during discovery. For example, as repeatedly identified in the documents that OFCCP produced during this litigation and the underlying investigation, Oracle failed to produce: applicant and hiring data, such as data regarding name of school attended and prior degrees earned, years of prior work experience and prior salary before being hired by Oracle, compensation data such as the 1/13/13 snapshot, Oracle's pay equity analysis, employee personnel actions, employee contact information, data for the 2012 applicant flow log, internal complaints, external arbitration complaints, documents regarding compensation and hiring, etc. Additionally, in this litigation, Oracle, in its written document production responses identified that it would not be producing any responsive documents for 55 requests or 60% of OFCCP's document production requests. This failure to produce is in addition to refusing to produce a person for the Rule 30(b)(6) deposition that OFCCP noticed. Moreover, this Interrogatory is premature to the extent it will be the subject of forthcoming expert testimony. Finally, OFCCP objects to this interrogatory insofar as it seeks disclosure of information protected under Fed. R. Civ. P. 26(b)(4)(D).

OFCCP objects to this Interrogatory as overly overbroad, unduly burdensome, oppressive, not relevant, and not proportional to the needs of the case with respect to the term "all

facts” because this term is not confined to the principal or material facts of the case, but seeks the identity of each and every fact, however minor, that may relate to the case.

Subject to and without waiving the foregoing objections, OFCCP incorporates its response to Interrogatory No. 2, its statements in the Amended Complaint and refers Oracle to the responsive documents that it produced during discovery, including, but not limited to, the NOV and Attachment, and the compensation database that Oracle provided to OFCCP for the 2014 snapshot. OFCCP further responds that during the compliance review of Oracle headquarters, OFCCP evaluated and analyzed Oracle’s compensation information and evidence gathered in the investigation and found statistically significant pay disparities based upon race between African Americans and Whites after controlling for legitimate explanatory factors in the Product Development line of business. Within this line of business, OFCCP controlled for the following factors: job title, full-time/part-time status, exempt status, global career level, job specialty, estimated prior work experience, and work experience at Oracle. Even after controlling for such factors in the analysis, African American employees were paid significantly less than White employees in the Product Development line of business. OFCCP will supplement this response as more documents and data are produced during discovery under the supervision of the office of administrative law judges.

Discussion

Assuming the compensation database, standing alone, adequately identifies the persons Plaintiff considered “qualified African Americans” and “comparable Whites employed in similar roles,” Plaintiff must nevertheless, within thirty days of the date of issuance of this Order, state all facts known to it which support the conclusion that Defendant paid qualified African Americans less, as set forth in the interrogatory. Additionally, if the compensation database, standing alone, does not adequately identify the “qualified African Americans” and the “comparable Whites employed in similar roles” (*see* the court’s discussion of Interrogatory No. 4 above), Plaintiff must do so specifically, within the same time limit.

Interrogatory No. 8

Defendant’s Interrogatory No. 8: Identify by name and last known contact information each PERSON with knowledge of the facts alleged in Paragraph 8 of the Amended Complaint, including the nature of the facts of which the PERSON identified has knowledge.

Plaintiff’s Response: OFCCP incorporates the general objections stated above, and further objects to this Interrogatory to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government’s deliberative process privilege, the governmental privilege for investigative files and techniques, the government’s informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP further objects to the Interrogatory on the basis that it is compound, vague and ambiguous as to “nature of the facts,” “knowledge of the facts,” and “contact information.” “Nature of facts” is so unintelligible that it is unclear what Oracle is seeking. For example, is nature of the facts the date the person acquired the facts, how he acquired the facts, who he acquired the facts from, the contents of the facts, when the facts occurred, who observed or witnessed the facts, etc. In terms of knowledge of the facts: it is not known if Oracle was referring to personal knowledge, constructive knowledge, third-hand knowledge, hearsay knowledge, etc. It is not clear what Oracle means by contact information, is it a person [sic] home telephone number, is it a person’s business address, etc. [sic]

OFCCP also objects to the Interrogatory as being unduly burdensome, overly broad, not relevant, oppressive and not proportional to the case because for OFCCP to truly answer this request, OFCCP would need to literally interview thousands of Oracle employees to include employees in supervisory and management positions to ascertain everyone who has knowledge of the discrimination.

OFCCP again objects to the Interrogatory as being unduly burdensome, overly broad, not relevant, oppressive and not proportional to the case for OFCCP to interview potentially thousands of employees to obtain their last known contact information when Oracle is already in possession of this information.

OFCCP still further objects because the Interrogatory calls for speculation if Oracle does not make everyone available to OFCCP who might have knowledge of the discrimination so that OFCCP can identify all of the people who have knowledge of the discrimination.

OFCCP objects to this Interrogatory as overly overbroad, unduly burdensome, oppressive, not relevant, and not proportional to the needs of the case with respect to the term “all facts” if the nature of the facts includes every fact, however, minor [sic] that the person knows regardless of how the person obtained knowledge of the alleged fact.

OFCCP objects to this interrogatory as it is making two distinct information requests in one interrogatory – identify the name, job title and contact information of the person with knowledge, and the content/nature of this knowledge. OFCCP will count this as two interrogatories.

To the extent that the following objection that Defendant used during written discovery is a valid objection since the parties are meeting and conferring about it: the request/Interrogatory “requires [the party answering the written discovery] to refer to materials outside of the request itself,” OFCCP makes this objection here because this Interrogatory referred to materials outside of the Interrogatory itself.⁵

OFCCP further objects to the request to the extent it seeks each individual’s contact information on the grounds of the Privacy Act and that they are represented by counsel. OFCCP’s

⁵ *Id.*

personnel (current or former) may be contacted through OFCCP's counsel at the Office of the Solicitor.

Subject to and without waiving the foregoing objections, OFCCP responds that the following persons, excluding OFCCP attorneys at the Office of the Solicitor, may have knowledge of the facts giving rise to the allegations made in the Amended Complaint include *[sic]*: Oracle employees, supervisors and managers employed by Oracle during the review period; former employees, supervisors and managers of Oracle; and OFCCP personnel listed in response to Interrogatory No. 1. OFCCP will supplement this response as more documents and data are produced during discovery under the supervision of the office of administrative law judges.

Discussion

Again, this interrogatory asks Plaintiff to identify potential witnesses with knowledge of "the facts alleged in Paragraph 8 of the Amended Complaint." Paragraph 8 of the Amended Complaint alleges numerous facts. Despite this issue, to the extent it has not already done so, Plaintiff must, within thirty days of issuance of this Order, identify all persons (other than persons affiliated with Defendant) who have knowledge of the material facts alleged in Paragraph 8 of the Amended Complaint.

Interrogatory No. 9

Defendant's Interrogatory No. 9: As to each African American allegedly discriminated against as referenced in Paragraph 8 of the Amended Complaint, identify by name and job title the comparable White or Whites employed in similar roles.

Plaintiff's Response: OFCCP incorporates the general objections stated above, and further objects to this Interrogatory to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government's deliberative process privilege, the governmental privilege for investigative files and techniques, the government's informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP objects to this contention Interrogatory as overly broad and unduly burdensome because OFCCP should be provided the opportunity to conduct discovery and maintain flexibility about its contentions before responding to contention interrogatories, as the information necessary to respond to this Interrogatory becomes more readily available. See cases cited in General Objection No. 1. OFCCP further objects to this Interrogatory as premature because OFCCP has only obtained minimal discovery from Oracle because Oracle refused to provide a person for the Rule 30(b)(6) deposition that OFCCP noticed, refused to produce any documents pending a protective order to include not even producing responsive documents that were not covered by the protective order, and has produced information responsive to only a fraction of OFCCP's discovery requests. Furthermore, OFCCP objects to this premature interrogatory be-

cause Oracle is attempting to benefit from the unclean hands of repeatedly failing to produce requested information during the compliance review and obstructing OFCCP's ability to acquire this same information during discovery. For example, as repeatedly identified in the documents that OFCCP produced during this litigation and the underlying investigation, Oracle failed to produce: applicant and hiring data, such as data regarding name of school attended and prior degrees earned, years of prior work experience and prior salary before being hired by Oracle, compensation data such as the 1/13/13 snapshot, Oracle's pay equity analysis, employee personnel actions, employee contact information, data for the 2012 applicant flow log, internal complaints, external arbitration complaints, documents regarding compensation and hiring, etc. Additionally, in this litigation, Oracle, in its written document production responses identified that it would not be producing any responsive documents for 55 requests or 60% of OFCCP's document production requests. This failure to produce is in addition to refusing to produce a person for the Rule 30(b)(6) deposition that OFCCP noticed. Moreover, this Interrogatory is premature to the extent it will be the subject of forthcoming expert testimony. Finally, OFCCP objects to this interrogatory insofar as it seeks disclosure of information protected under Fed. R. Civ. P. 26(b)(4)(D).

To the extent that the following objection that Defendant used during written discovery is a valid objection since the parties are meeting and conferring about it: the request/Interrogatory "requires [the party answering the written discovery] to refer to materials outside of the request itself," OFCCP makes this objection here because this Interrogatory referred to materials outside of the Interrogatory itself.⁶

Subject to and without waiving the foregoing objections, OFCCP incorporates its responses to Interrogatory Nos. 2 and 7, its statements in the Amended Complaint and refers Oracle to the responsive documents that it produced during discovery, including, but not limited to, the NOV and Attachment, and the compensation database that Oracle provided to OFCCP for the 2014 snapshot. The compensation database provided to OFCCP by Oracle lists the names of White employees in the Information Technology, Support, and Product Development lines of business, as well as their job titles that OFCCP alleges were comparable White employees in similar roles to African American employees based on the snapshot of data Oracle provided as of January 1, 2014. The compensation database provided to OFCCP by Oracle also lists the names of African Americans in the Product Development line of business, as well as their job titles that OFCCP alleges were victims of discrimination based on the snapshot of data Oracle provided as of January 1, 2014. As more data is produced, including data from 2013 and since the snapshot from January 1, 2014, through the present, OFCCP expects that additional Whites, as well African American victims of discrimination [*sic*], will be identified. OFCCP will supplement this response as more documents and data are produced during discovery under the supervision of the office of administrative law judges.

Discussion

⁶ *Id.*

Again, the answer assumes the names and job titles of the described persons are obvious from the compensation data base, standing alone. The court has not seen the compensation data base. If a third person can determine, merely by consulting the compensation data base, the names and job titles of the persons who are the subject of this interrogatory, then Plaintiff's answer is sufficient. But such a database may well include the names and job titles of other people as well. It might not identify persons by gender or ethnicity. Accordingly, if for these, or any other, reasons, the compensation data base, standing alone, does not readily identify the names and job titles of the persons who are the subject of this interrogatory, then Plaintiff, within thirty days of the issuance of this Order, must specifically identify those people by name and job title within thirty days of the issuance of this Order.

Interrogatory No. 10

Defendant's Interrogatory No. 10: For each qualified African American allegedly discriminated against as referenced in Paragraph 8 of the Amended Complaint, state all facts that support the allegation that the White employee(s) identified as similarly situated and comparable were similarly situated and comparable.

Plaintiff's Response: OFCCP incorporates the general objections stated above, and further objects to this Interrogatory to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government's deliberative process privilege, the governmental privilege for investigative files and techniques, the government's informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP objects to this contention Interrogatory as overly broad and unduly burdensome because OFCCP should be provided the opportunity to conduct discovery and maintain flexibility about its contentions before responding to contention interrogatories, as the information necessary to respond to this Interrogatory becomes more readily available. See cases cited in General Objection No. 1. OFCCP further objects to this Interrogatory as premature because OFCCP has only obtained minimal discovery from Oracle because Oracle refused to provide a person for the Rule 30(b)(6) deposition that OFCCP noticed, refused to produce any documents pending a protective order to include not even producing responsive documents that were not covered by the protective order, and has produced information responsive to only a fraction of OFCCP's discovery requests. Furthermore, OFCCP objects to this premature interrogatory because Oracle is attempting to benefit from the unclean hands of repeatedly failing to produce requested information during the compliance review and obstructing OFCCP's ability to acquire this same information during discovery. For example, as repeatedly identified in the documents that OFCCP produced during this litigation and the underlying investigation, Oracle failed to produce: applicant and hiring data, such as data regarding name of school attended and prior degrees earned, years of prior work experience and prior salary before being hired by Oracle, compensation data such as at the 1/13/13 snapshot, Oracle's pay equity analysis, employee personnel actions, employee contact information, data for the 2012 applicant flow log, internal

complaints, external arbitration complaints, documents regarding compensation and hiring, etc. Additionally, in this litigation, Oracle, in its written document production responses identified that it would not be producing any responsive documents for 55 requests or 60% of OFCCP's document production requests. This failure to produce is in addition to refusing to produce a person for the Rule 30(b)(6) deposition that OFCCP noticed. Moreover, this Interrogatory is premature to the extent it will be the subject of forthcoming expert testimony. Finally, OFCCP objects to this interrogatory insofar as it seeks disclosure of information protected under Fed. R. Civ. P. 26(b)(4)(D).

OFCCP objects to this Interrogatory as overly overbroad, unduly burdensome, oppressive, not relevant, and not proportional to the needs of the case with respect to the term "all facts" because this term is not confined to the principal or material facts of the case, but seeks the identity of each and every fact, however minor, that may relate to the case.

To the extent that the following objection that Defendant used during written discovery is a valid objection since the parties are meeting and conferring about it: the request/Interrogatory "requires [the party answering the written discovery] to refer to materials outside of the request itself," OFCCP makes this objection here because this Interrogatory referred to materials outside of the Interrogatory itself.⁷

Subject to and without waiving the foregoing objections, OFCCP incorporates herein its responses to Interrogatory Nos. 2 and 4, its statements in the Amended Complaint and refers Oracle to the responsive documents that it produced during discovery, including, but not limited to, the NOV and Attachment, and the compensation database that Oracle provided to OFCCP for the 2014 snapshot. The compensation database provided to OFCCP by Oracle lists the names of White employees in the Information Technology, Support, and Product Development lines of business, as well as their job titles that OFCCP alleges were comparable White employees in similar roles to African American employees based on the snapshot of data Oracle provided as of January 1, 2014. The compensation database provided to OFCCP by Oracle also lists the names of African Americans in the Product Development line of business, as well as their job titles that OFCCP alleges were victims of discrimination based on the snapshot of data Oracle provided as of January 1, 2014. OFCCP further responds that it determined which roles were similar by reviewing evidence gathered during the compliance review. As more data is produced, including data from 2013 and since the snapshot from January 1, 2014, through the present, OFCCP expects that additional Whites, as well African American victims of discrimination [*sic*], will be identified. OFCCP will supplement this response as more documents and data are produced during discovery under the supervision of the office of administrative law judges.

Discussion

Assuming the compensation database, standing alone, adequately identifies the persons Plaintiff considered "similarly situated and comparable," Plaintiff must nevertheless, within thirty days of the date of issuance of this Order, state all facts

⁷ *Id.*

known to it which support the conclusion that those persons were in fact “similarly situated and comparable.” Additionally, if the compensation database, standing alone, does not adequately identify those persons (*see* the court’s discussion of Interrogatory No. 4 above), Plaintiff must do so specifically, within the same time limit.

Interrogatory No. 11

Defendant’s Interrogatory No. 11: State all facts that support the allegation contained in Paragraph 8 of the Amended Complaint that there was a standard deviation of -2.10, including the statistical data used, the analysis and methodologies used, and the computations used to determine the standard deviations.

Plaintiff’s Response: OFCCP incorporates the general objections stated above, and further objects to this Interrogatory to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government’s deliberative process privilege, the governmental privilege for investigative files and techniques, the government’s informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP objects to this Interrogatory to the extent it implies that OFCCP was required to allege statistical data. Statistical data supporting OFCCP’s claims of discrimination will be developed and refined, during and after discovery. Tying OFCCP to a particular set of statistics at the pleading stage would be both unfair and inefficient. The time for assessing OFCCP’s statistical evidence, including whether it accounts for all relevant variables, is after discovery is closed and the case is tried. Further, it is impossible for OFCCP to make any refinements to statistics in this case until Defendants produce the myriad relevant records they refused to provide to OFCCP and have not yet produced in discovery.

OFCCP objects to this contention Interrogatory as overly broad and unduly burdensome because OFCCP should be provided the opportunity to conduct discovery and maintain flexibility about its contentions before responding to contention interrogatories, as the information necessary to respond to this Interrogatory becomes more readily available. *See* cases cited in General Objection No. 1. OFCCP further objects to this Interrogatory as premature because OFCCP has only obtained minimal discovery from Oracle because Oracle refused to provide a person for the Rule 30(b)(6) deposition that OFCCP noticed, refused to produce any documents pending a protective order to include not even producing responsive documents that were not covered by the protective order, and has produced information responsive to only a fraction of OFCCP’s discovery requests. Furthermore, OFCCP objects to this premature interrogatory because Oracle is attempting to benefit from the unclean hands of repeatedly failing to produce requested information during the compliance review and obstructing OFCCP’s ability to acquire this same information during discovery. For example, as repeatedly identified in the documents that OFCCP produced during this litigation and the underlying investigation, Oracle failed to produce: applicant and hiring data, such as data regarding name of school attended and pri-

or degrees earned, years of prior work experience and prior salary before being hired by Oracle, compensation data such as the 1/13/13 snapshot, Oracle's pay equity analysis, employee personnel actions, employee contact information, data for the 2012 applicant flow log, internal complaints, external arbitration complaints, documents regarding compensation and hiring, etc. Additionally, in this litigation, Oracle, in its written document production responses identified that it would not be producing any responsive documents for 55 requests or 60% of OFCCP's document production requests. This failure to produce is in addition to refusing to produce a person for the Rule 30(b)(6) deposition that OFCCP noticed. Moreover, this Interrogatory is premature to the extent it will be the subject of forthcoming expert testimony. Finally, OFCCP objects to this interrogatory insofar as it seeks disclosure of information protected under Fed. R. Civ. P. 26(b)(4)(D).

OFCCP likewise objects to the terms "statistical data used," "the analysis and methodologies used," the computations used." [Sic] For these latter three terms the context of "used" is not known and it is not clear which "statistical data," "analysis," "methodologies" and "computations" that Oracle is referring [sic].

OFCCP objects to this Interrogatory as overly overbroad, unduly burdensome, 105oppressive, not relevant, and not proportional to the needs of the case with respect to the term "all facts" because this term is not confined to the principal or material facts of the case, but seeks the identity of each and every fact, however minor, that may relate to the case.

OFCCP further objects to producing any in-house statistical analyses performed to include the data, methodology and computations that OFCCP employed. This information is protected under the various privileges asserted above, is irrelevant, and is not proportional to the needs of the case.

To the extent that the following objection that Defendant used during written discovery is a valid objection since the parties are meeting and conferring about it: the request/Interrogatory "requires [the party answering the written discovery] to refer to materials outside of the request itself," OFCCP makes this objection here because this Interrogatory referred to materials outside of the Interrogatory itself.⁸

Subject to and without waiving the foregoing objections, OFCCP incorporates herein its responses to Interrogatory Nos. 2, 7, 9 and 10, its statements in the Amended Complaint and refers Oracle to the responsive documents that it produced during discovery, including, but not limited to, the NOV and Attachment, and the compensation database that Oracle provided to OFCCP for the 2014 snapshot. The compensation database provided to OFCCP by Oracle lists the names of White employees in the Information Technology, Support, and Product Development lines of business, as well as their job titles that OFCCP alleges were comparable White employees in similar roles to African American employees based on the snapshot of data Oracle provided as of January 1, 2014. The compensation database provided to OFCCP by Oracle also lists the names of African American [sic] in the Product Development line of business, as well as

⁸ *Id.*

their job titles, that OFCCP alleges were victims of discrimination based on the snapshot of data Oracle provided as of January 1, 2014. OFCCP further responds that during the compliance review, OFCCP evaluated and analyzed Oracle's compensation information and found statistically significant pay disparities adverse to African American employees after controlling for legitimate explanatory factors in the Product Development line of business. Within this line of business, OFCCP controlled for the following factors: job title, full-time status, exempt status, global career level, job specialty, estimated prior work experience, and company tenure/work experience within Oracle. Even after controlling for such factors in the analysis, African American employees were paid significantly less than White employees in the Product Development line of business at -2.10 standard deviations. As more data is produced, including data from 2013 and since the snapshot from January 1, 2014 through the present, OFCCP expects that additional comparable Whites, as well as African American victims of discrimination, will be identified. OFCCP will supplement this response as more documents and data are produced during discovery under the supervision of the office of administrative law judges.

Discussion

The court overrules Plaintiff's objections. Plaintiff must supply the requested information within thirty days of the date of issuance of this Order.

Interrogatory No. 12

Defendant's Interrogatory No. 12: State all facts that support the allegation in Paragraph 9 of the Amended Complaint that "Oracle discriminated against qualified Asians in Product Development roles at Oracle Redwood Shores based upon race by paying them less than comparable Whites employed in similar roles."

Plaintiff's Response: OFCCP incorporates the general objections stated above, and further objects to this Interrogatory to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government's deliberative process 106privilege, the governmental privilege for investigative files and techniques, the government's informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP objects to this contention Interrogatory as overly broad and unduly burdensome because OFCCP should be provided the opportunity to conduct discovery and maintain flexibility about its contentions before responding to contention interrogatories, as the information necessary to respond to this Interrogatory becomes more readily available. See cases cited in General Objection No. 1. OFCCP further objects to this Interrogatory as premature because OFCCP has only obtained minimal discovery from Oracle because Oracle refused to provide a person for the Rule 30(b)(6) deposition that OFCCP noticed, refused to produce any documents pending a protective order to include not even producing responsive documents that were not covered by the protective order, and has produced information responsive to only a fraction of OFCCP's discovery requests. Furthermore, OFCCP objects to this premature interrogatory be-

cause Oracle is attempting to benefit from the unclean hands of repeatedly failing to produce requested information during the compliance review and obstructing OFCCP's ability to acquire this same information during discovery. For example, as repeatedly identified in the documents that OFCCP produced during this litigation and the underlying investigation, Oracle failed to produce: applicant and hiring data, such as data regarding name of school attended and prior degrees earned, years of prior work experience and prior salary before being hired by Oracle, compensation data such as the 1/13/13 snapshot, Oracle's pay equity analysis, employee personnel actions, employee contact information, data for the 2012 applicant flow log, internal complaints, external arbitration complaints, documents regarding compensation and hiring, etc. Additionally, in this litigation, Oracle, in its written document production responses identified that it would not be producing any responsive documents for 55 requests or 60% of OFCCP's document production requests. This failure to produce is in addition to refusing to produce a person for the Rule 30(b)(6) deposition that OFCCP noticed. Moreover, this Interrogatory is premature to the extent it will be the subject of forthcoming expert testimony. Finally, OFCCP objects to this interrogatory insofar as it seeks disclosure of information protected under Fed. R. Civ. P. 26(b)(4)(D).

OFCCP objects to this Interrogatory as overly overbroad, unduly burdensome, oppressive, not relevant, and not proportional to the needs of the case with respect to the term "all facts" because this term is not confined to the principal or material facts of the case, but seeks the identity of each and every fact, however minor, that may relate to the case.

Subject to and without waiving the foregoing objections, OFCCP incorporates its response to Interrogatory No. 2, its statements in the Amended Complaint and refers Oracle to the responsive documents that it produced during discovery, including, but not limited to, the NOV and Attachment, and the compensation database that Oracle provided to OFCCP for the 2014 snapshot. OFCCP further responds that during the compliance review of Oracle headquarters, OFCCP evaluated and analyzed Oracle's compensation information and evidence gathered in the investigation and found statistically significant pay disparities based upon race between Asians and Whites after controlling for legitimate explanatory factors. Within this line of business, OFCCP controlled for the following factors: job title, full-time/part-time status, exempt status, global career level, job specialty, estimated prior work experience, and work experience at Oracle. Even after controlling for such factors in the analysis, Asian employees were paid significantly less than White employees in the Product Development line of business. OFCCP will supplement this response as more documents and data are produced during discovery under the supervision of the office of administrative law judges.

Discussion

Within thirty days of the date of issuance of this Order, Plaintiff must amend this Response to specify the facts known to it which support the quoted allegation. The response set forth above merely suggests that Plaintiff drew conclusions from sources it has identified. It must specify the conclusions it drew and explain how the data supports those conclusions.

Interrogatory No. 13

Defendant's Interrogatory No. 13: Identify by name and last known contact information each PERSON with knowledge of the facts alleged in Paragraph 9 of the Amended Complaint, including the nature of the facts of which the PERSON identified has knowledge.

Plaintiff's Response: OFCCP incorporates the general objections stated above, and further objects to this Interrogatory to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government's deliberative process 108privilege, the governmental privilege for investigative files and techniques, the government's informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP further objects to the Interrogatory on the basis that it is compound, vague and ambiguous as to "nature of the facts," "knowledge of the facts," and "contact information." "Nature of facts" is so unintelligible that it is unclear what Oracle is seeking. For example, is nature of the facts the date the person acquired the facts, how he acquired the facts, who he acquired the facts from, the contents of the facts, when the facts occurred, who observed or witnessed the facts, etc. In terms of knowledge of the facts: it is not known if Oracle was referring to personal knowledge, constructive knowledge, third-hand knowledge, hearsay knowledge, etc. It is not clear what Oracle means by contact information, is it a person *[sic]* home telephone number, is it a person's business address, etc. *[sic]*

OFCCP also objects to the Interrogatory as being unduly burdensome, overly broad, not relevant, oppressive and not proportional to the case because for OFCCP to truly answer this request, OFCCP would need to literally interview thousands of Oracle employees to include employees in supervisory and management positions to ascertain everyone who has knowledge of the discrimination.

OFCCP again objects to the Interrogatory as being unduly burdensome, overly broad, not relevant, oppressive and not proportional to the case for OFCCP to interview potentially thousands of employees to obtain their last known contact information when Oracle is already in possession of this information.

OFCCP still further objects because the Interrogatory calls for speculation if Oracle does not make everyone available to OFCCP who might have knowledge of the discrimination so that OFCCP can identify all of the people who have knowledge of the discrimination.

OFCCP objects to this Interrogatory as overly overbroad, unduly burdensome, 108oppressive, not relevant, and not proportional to the needs of the case with respect to the term "all facts" if the nature of the facts includes every fact, however, minor *[sic]* that the person knows regardless of how the person obtained knowledge of the alleged fact.

OFCCP objects to this interrogatory as it is making two distinct information requests in one interrogatory – identify the name, job title and contact information of the person with knowledge, and the content/nature of this knowledge. OFCCP will count this as two interrogatories.

To the extent that the following objection that Defendant used during written discovery is a valid objection since the parties are meeting and conferring about it: the request/Interrogatory “requires [the party answering the written discovery] to refer to materials outside of the request itself,” OFCCP makes this objection here because this Interrogatory referred to materials outside of the Interrogatory itself.⁹

OFCCP further objects to the request to the extent it seeks each individual’s contact information on the grounds of the Privacy Act and that they are represented by counsel. OFCCP’s personnel (current or former) may be contacted through OFCCP’s counsel at the Office of the Solicitor.

Subject to and without waiving the foregoing objections, OFCCP responds that the following persons, excluding OFCCP attorneys at the Office of the Solicitor, may have knowledge of the facts giving rise to the allegations made in the Amended Complaint include *[sic]*: Oracle employees, supervisors and managers employed by Oracle during the review period; former employees, supervisors and managers of Oracle; and OFCCP personnel listed in response to Interrogatory No. 1. OFCCP will supplement this response as more documents and data are produced during discovery under the supervision of the office of administrative law judges.

Discussion

Again, this interrogatory asks Plaintiff to identify potential witnesses with knowledge of “the facts alleged in Paragraph 9 of the Amended Complaint.” Paragraph 9 of the Amended Complaint alleges numerous facts. Despite this issue, to the extent it has not already done so, Plaintiff must, within thirty days of issuance of this Order, identify all persons (other than persons affiliated with Defendant) who have knowledge of the material facts alleged in Paragraph 9 of the Amended Complaint.

Interrogatory No. 14

Defendant’s Interrogatory No. 14: As to each Asian allegedly discriminated against as referenced in Paragraph 9 of the Amended Complaint, identify by name and job title the comparable White or Whites employed in similar roles.

Plaintiff’s Response: OFCCP incorporates the general objections stated above, and further objects to this Interrogatory to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government’s deliberative process 109privilege, the governmental privilege for investigative files and techniques, the govern-

⁹ *Id.*

ment's informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP objects to this contention Interrogatory as overly broad and unduly burdensome because OFCCP should be provided the opportunity to conduct discovery and maintain flexibility about its contentions before responding to contention interrogatories, as the information necessary to respond to this Interrogatory becomes more readily available. See cases cited in General Objection No. 1. OFCCP further objects to this Interrogatory as premature because OFCCP has only obtained minimal discovery from Oracle because Oracle refused to provide a person for the Rule 30(b)(6) deposition that OFCCP noticed, refused to produce any documents pending a protective order to include not even producing responsive documents that were not covered by the protective order, and has produced information responsive to only a fraction of OFCCP's discovery requests. Furthermore, OFCCP objects to this premature interrogatory because Oracle is attempting to benefit from the unclean hands of repeatedly failing to produce requested information during the compliance review and obstructing OFCCP's ability to acquire this same information during discovery. For example, as repeatedly identified in the documents that OFCCP produced during this litigation and the underlying investigation, Oracle failed to produce: applicant and hiring data, such as data regarding name of school attended and prior degrees earned, years of prior work experience and prior salary before being hired by Oracle, compensation data such as the 1/13/13 snapshot, Oracle's pay equity analysis, employee personnel actions, employee contact information, data for the 2012 applicant flow log, internal complaints, external arbitration complaints, documents regarding compensation and hiring, etc. Additionally, in this litigation, Oracle, in its written document production responses identified that it would not be producing any responsive documents for 55 requests or 60% of OFCCP's document production requests. This failure to produce is in addition to refusing to produce a person for the Rule 30(b)(6) deposition that OFCCP noticed. Moreover, this Interrogatory is premature to the extent it will be the subject of forthcoming expert testimony. Finally, OFCCP objects to this interrogatory insofar as it seeks disclosure of information protected under Fed. R. Civ. P. 26(b)(4)(D).

To the extent that the following objection that Defendant used during written discovery is a valid objection since the parties are meeting and conferring about it: the request/Interrogatory "requires [the party answering the written discovery] to refer to materials outside of the request itself," OFCCP makes this objection here because this Interrogatory referred to materials outside of the Interrogatory itself.¹⁰

Subject to and without waiving the foregoing objections, OFCCP incorporates its responses to Interrogatory Nos. 2 and 12, its statements in the Amended Complaint and refers Oracle to the responsive documents that it produced during discovery, including, but not limited to, the NOV and Attachment, and the compensation database that Oracle provided to OFCCP for the 2014 snapshot. The compensation database provided to OFCCP by Oracle lists the names of White employees in the Information Technology, Support, and Product Develop-

¹⁰ *Id.*

ment lines of business, as well as their job titles that OFCCP alleges were comparable White employees in similar roles to Asian employees based on the snapshot of data Oracle provided as of January 1, 2014. The compensation database provided to OFCCP by Oracle also lists the names of Asians in the Product Development line of business, as well as their job titles that OFCCP alleges were victims of discrimination based on the snapshot of data Oracle provided as of January 1, 2014. As more data is produced, including data from 2013 and since the snapshot from January 1, 2014, through the present, OFCCP expects that additional Whites, as well Asian victims of discrimination [*sic*], will be identified. OFCCP will supplement this response as more documents and data are produced during discovery under the supervision of the office of administrative law judges.

Discussion

Again, the answer assumes the names and job titles of the described persons are obvious from the compensation data base, standing alone. The court has not seen the compensation data base. If a third person can determine, merely by consulting the compensation data base, the names and job titles of the persons who are the subject of this interrogatory, then Plaintiff's answer is sufficient. But such a database may well include the names and job titles of other people as well. It might not identify persons by gender or ethnicity. Accordingly, if for these, or any other, reasons, the compensation data base, standing alone, does not readily identify the names and job titles of the persons who are the subject of this interrogatory, then Plaintiff, within thirty days of the issuance of this Order, must specifically identify those people by name and job title.

Interrogatory No. 15

Defendant's Interrogatory No. 15: For each qualified Asian allegedly discriminated against as referenced in Paragraph 9 of the Amended Complaint, state all facts that support the allegation that the White employee(s) identified as similarly situated and comparable were similarly situated and comparable.

Plaintiff's Response: OFCCP incorporates the general objections stated above, and further objects to this Interrogatory to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government's deliberative process privilege, the governmental privilege for investigative files and techniques, the government's informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP objects to this contention Interrogatory as overly broad and unduly burdensome because OFCCP should be provided the opportunity to conduct discovery and maintain flexibility about its contentions before responding to contention interrogatories, as the information necessary to respond to this Interrogatory becomes more readily available. See cases cited in General Objection No. 1. OFCCP further objects to this Interrogatory as premature because

OFCCP has only obtained minimal discovery from Oracle because Oracle refused to provide a person for the Rule 30(b)(6) deposition that OFCCP noticed, refused to produce any documents pending a protective order to include not even producing responsive documents that were not covered by the protective order, and has produced information responsive to only a fraction of OFCCP's discovery requests. Furthermore, OFCCP objects to this premature interrogatory because Oracle is attempting to benefit from the unclean hands of repeatedly failing to produce requested information during the compliance review and obstructing OFCCP's ability to acquire this same information during discovery. For example, as repeatedly identified in the documents that OFCCP produced during this litigation and the underlying investigation, Oracle failed to produce: applicant and hiring data, such as data regarding name of school attended and prior degrees earned, years of prior work experience and prior salary before being hired by Oracle, compensation data such as the 1/13/13 snapshot, Oracle's pay equity analysis, employee personnel actions, employee contact information, data for the 2012 applicant flow log, internal complaints, external arbitration complaints, documents regarding compensation and hiring, etc. Additionally, in this litigation, Oracle, in its written document production responses identified that it would not be producing any responsive documents for 55 requests or 60% of OFCCP's document production requests. This failure to produce is in addition to refusing to produce a person for the Rule 30(b)(6) deposition that OFCCP noticed. Moreover, this Interrogatory is premature to the extent it will be the subject of forthcoming expert testimony. Finally, OFCCP objects to this interrogatory insofar as it seeks disclosure of information protected under Fed. R. Civ. P. 26(b)(4)(D).

OFCCP objects to this Interrogatory as overly overbroad, unduly burdensome, 112oppressive, not relevant, and not proportional to the needs of the case with respect to the term "all facts" because this term is not confined to the principal or material facts of the case, but seeks the identity of each and every fact, however minor, that may relate to the case.

To the extent that the following objection that Defendant used during written discovery is a valid objection since the parties are meeting and conferring about it: the request/Interrogatory "requires [the party answering the written discovery] to refer to materials outside of the request itself," OFCCP makes this objection here because this Interrogatory referred to materials outside of the Interrogatory itself.¹¹

Subject to and without waiving the foregoing objections, OFCCP incorporates herein its responses to Interrogatory Nos. 2, 12 and 14, its statements in the Amended Complaint and refers Oracle to the responsive documents that it produced during discovery, including, but not limited to, the NOV and Attachment, and the compensation database that Oracle provided to OFCCP for the 2014 snapshot. The compensation database provided to OFCCP by Oracle lists the names of White employees in the Information Technology, Support, and Product Development lines of business, as well as their job titles that OFCCP alleges were comparable White employees in similar roles to Asian employees based on the snapshot of data Oracle provided as of January 1, 2014. The compensation database provided to OFCCP by Oracle also lists the names of Asians in the Product Development line of business, as well as their job titles that

¹¹ *Id.*

OFCCP alleges were victims of discrimination based on the snapshot of data Oracle provided as of January 1, 2014. OFCCP further responds that it determined which roles were similar by reviewing evidence gathered during the compliance review. As more data is produced, including data from 2013 and since the snapshot from January 1, 2014, through the present, OFCCP expects that additional Whites, as well Asian victims of discrimination *[sic]*, will be identified. OFCCP will supplement this response as more documents and data are produced during discovery under the supervision of the office of administrative law judges.

Discussion

Assuming the compensation database, standing alone, adequately identifies the persons Plaintiff considered “similarly situated and comparable,” Plaintiff must nevertheless, within thirty days of the date of issuance of this Order, state all facts known to it which support the conclusion that those persons were in fact “similarly situated and comparable.” Additionally, if the compensation database, standing alone, does not adequately identify those persons, Plaintiff must do so specifically, within the same time limit.

Interrogatory No. 16

Defendant’s Interrogatory No. 16: State all facts that support the allegation contained in Paragraph 9 of the Amended Complaint that there was a standard deviation of -6.55, including the statistical data used, the analysis and methodologies used, and the computations used to determine the standard deviation.

Plaintiff’s Response: OFCCP incorporates the general objections stated above, and further objects to this Interrogatory to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government’s deliberative process privilege, the governmental privilege for investigative files and techniques, the government’s informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP objects to this Interrogatory to the extent it implies that OFCCP was required to allege statistical data. Statistical data supporting OFCCP’s claims of discrimination will be developed and refined, during and after discovery. Tying OFCCP to a particular set of statistics at the pleading stage would be both unfair and inefficient. The time for assessing OFCCP’s statistical evidence, including whether it accounts for all relevant variables, is after discovery is closed and the case is tried. Further, it is impossible for OFCCP to make any refinements to statistics in this case until Defendants produce the myriad relevant records they refused to provide to OFCCP and have not yet produced in discovery.

OFCCP objects to this contention Interrogatory as overly broad and unduly burdensome because OFCCP should be provided the opportunity to conduct discovery and maintain flexibility about its contentions before responding to contention interrogatories, as the information

necessary to respond to this Interrogatory becomes more readily available. See cases cited in General Objection No. 1. OFCCP further objects to this Interrogatory as premature because OFCCP has only obtained minimal discovery from Oracle because Oracle refused to provide a person for the Rule 30(b)(6) deposition that OFCCP noticed, refused to produce any documents pending a protective order to include not even producing responsive documents that were not covered by the protective order, and has produced information responsive to only a fraction of OFCCP's discovery requests. Furthermore, OFCCP objects to this premature interrogatory because Oracle is attempting to benefit from the unclean hands of repeatedly failing to produce requested information during the compliance review and obstructing OFCCP's ability to acquire this same information during discovery. For example, as repeatedly identified in the documents that OFCCP produced during this litigation and the underlying investigation, Oracle failed to produce: applicant and hiring data, such as data regarding name of school attended and prior degrees earned, years of prior work experience and prior salary before being hired by Oracle, compensation data such as the 1/13/13 snapshot, Oracle's pay equity analysis, employee personnel actions, employee contact information, data for the 2012 applicant flow log, internal complaints, external arbitration complaints, documents regarding compensation and hiring, etc. Additionally, in this litigation, Oracle, in its written document production responses identified that it would not be producing any responsive documents for 55 requests or 60% of OFCCP's document production requests. This failure to produce is in addition to refusing to produce a person for the Rule 30(b)(6) deposition that OFCCP noticed. Moreover, this Interrogatory is premature to the extent it will be the subject of forthcoming expert testimony. Finally, OFCCP objects to this interrogatory insofar as it seeks disclosure of information protected under Fed. R. Civ. P. 26(b)(4)(D).

OFCCP likewise objects to the terms "statistical data used," "the analysis and methodologies used," "the computations used." [Sic] For these latter three terms the context of "used" is not known and it is not clear which "statistical data," "analysis," "methodologies" and "computations" that Oracle is referring [sic].

OFCCP objects to this Interrogatory as overly overbroad, unduly burdensome, oppressive, not relevant, and not proportional to the needs of the case with respect to the term "all facts" because this term is not confined to the principal or material facts of the case, but seeks the identity of each and every fact, however minor, that may relate to the case.

OFCCP further objects to producing any in-house statistical analyses performed to include the data, methodology and computations that OFCCP employed. This information is protected under the various privileges asserted above, is irrelevant, and is not proportional to the needs of the case.

To the extent that the following objection that Defendant used during written discovery is a valid objection since the parties are meeting and conferring about it: the request/Interrogatory "requires [the party answering the written discovery] to refer to materials

outside of the request itself,” OFCCP makes this objection here because this Interrogatory referred to materials outside of the Interrogatory itself.¹²

Subject to and without waiving the foregoing objections, OFCCP incorporates herein its responses to Interrogatory Nos. 2, 12, 14 and 15, its statements in the Amended Complaint and refers Oracle to the responsive documents that it produced during discovery, including, but not limited to, the NOV and Attachment, and the compensation database that Oracle provided to OFCCP for the 2014 snapshot. The compensation database provided to OFCCP by Oracle lists the names of White employees in the Information Technology, Support, and Product Development lines of business, as well as their job titles that OFCCP alleges were comparable White employees in similar roles to Asian employees based on the snapshot of data Oracle provided as of January 1, 2014. The compensation database provided to OFCCP by Oracle also lists the names of Asians in the Product Development line of business, as well as their job titles, that OFCCP alleges were victims of discrimination based on the snapshot of data Oracle provided as of January 1, 2014. OFCCP further responds that during the compliance review, OFCCP evaluated and analyzed Oracle’s compensation information and found statistically significant pay disparities adverse to Asian employees after controlling for legitimate explanatory factors in the Product Development line of business. Within this line of business, OFCCP controlled for the following factors: job title, full-time status, exempt status, global career level, job specialty, estimated prior work experience, and company tenure/Oracle work experience. Even after controlling for such factors in the analysis, Asian employees were paid significantly less than White employees in the Product Development line of business at -6.55 standard deviations. As more data is produced, including data from 2013 and since the snapshot from January 1, 2014 through the present, OFCCP expects that additional comparable Whites, as well as Asian victims of discrimination, will be identified. OFCCP will supplement this response as more documents and data are produced during discovery under the supervision of the office of administrative law judges.

Discussion

The court’s overrules Plaintiff’s objections to this interrogatory. Within thirty days of the date of issuance of this Order, Plaintiff must provide the requested information.

Interrogatory No. 17

Defendant’s Interrogatory No. 17: State all facts that support the allegation in Paragraph 10 of the Amended Complaint, that “Oracle utilized . . . a recruiting and hiring process that discriminates against [non-Asian] applicants in favor of Asian applicants, . . . based on race for positions in the [PT1] job group and Product Development line of business” at HQCA.

Plaintiff’s Response: OFCCP incorporates the general objections stated above, and further objects to this Interrogatory to the extent it seeks information protected by the attorney-

¹² *Id.*

client privilege, attorney work-product doctrine, the government's deliberative process privilege, the governmental privilege for investigative files and techniques, the government's informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP objects to this contention Interrogatory as overly broad and unduly burdensome because OFCCP should be provided the opportunity to conduct discovery and maintain flexibility about its contentions before responding to contention interrogatories, as the information necessary to respond to this Interrogatory becomes more readily available. *See* cases cited in General Objection No. 1. OFCCP further objects to this Interrogatory as premature because OFCCP has only obtained minimal discovery from Oracle because Oracle refused to provide a person for the Rule 30(b)(6) deposition that OFCCP noticed, refused to produce any documents pending a protective order to include not even producing responsive documents that were not covered by the protective order, and has produced information responsive to only a fraction of OFCCP's discovery requests. Furthermore, OFCCP objects to this premature interrogatory because Oracle is attempting to benefit from the unclean hands of repeatedly failing to produce requested information during the compliance review and obstructing OFCCP's ability to acquire this same information during discovery. For example, as repeatedly identified in the documents that OFCCP produced during this litigation and the underlying investigation, Oracle failed to produce: applicant and hiring data, such as data regarding name of school attended and prior degrees earned, years of prior work experience and prior salary before being hired by Oracle, compensation data such as the 1/13/13 snapshot, Oracle's pay equity analysis, employee personnel actions, employee contact information, data for the 2012 applicant flow log, internal complaints, external arbitration complaints, documents regarding compensation and hiring, etc. Additionally, in this litigation, Oracle, in its written document production responses identified that it would not be producing any responsive documents for 55 requests or 60% of OFCCP's document production requests. This failure to produce is in addition to refusing to produce a person for the Rule 30(b)(6) deposition that OFCCP noticed. Moreover, this Interrogatory is premature to the extent it will be the subject of forthcoming expert testimony. Finally, OFCCP objects to this interrogatory insofar as it seeks disclosure of information protected under Fed. R. Civ. P. 26(b)(4)(D).

OFCCP objects to this Interrogatory as overly overbroad, unduly burdensome, oppressive, not relevant, and not proportional to the needs of the case with respect to the term "all facts" because this term is not confined to the principal or material facts of the case, but seeks the identity of each and every fact, however minor, that may relate to the case.

Subject to and without waiving the foregoing objections, OFCCP incorporates its statements in the Amended Complaint and refers Oracle to the responsive documents that it produced during discovery, including, but not limited to, the NOV and Attachment, and the compensation database that Oracle provided to OFCCP for the 2014 snapshot. OFCCP further responds that that *[sic]* upon initiating a compliance review of Oracle's headquarters in Redwood Shores, California, OFCCP conducted a comprehensive analysis and evaluation of the hiring and

employment practices of Oracle, the written affirmative action program (AAP), and the results of the affirmative action efforts undertaken by Oracle, including a desk audit, on-site review and off-site analysis.

Specifically, OFCCP analyzed and evaluated Oracle's AAP and supporting documentation, and other documents related to the contractor's personnel policies and employment actions that may be relevant to a determination of whether Oracle complied with the requirements of the Executive Order, VEVRA, Section 503 and their implementing regulations, including but not limited to: employment policies, practices, records, and actions; management, human resources, non-management employee, and former employee statements; employee complaints; one-year of individual employee compensation data and other evidence; Labor Condition Applications; Oracle's compliance history by reviewing OFCCP internal database system, and review any information received from EEOC, State or local FEP, and/or other labor and employment agencies, such as the Department of Labor's Veterans' Employment and Training Service and Wage and Hour Division, and publically available company information; and Oracle's hiring data, workforce data and appropriate labor market workforce availability statistics. OFCCP also obtain and analyzed any complaints filed against Oracle through the Equal Employment Opportunity Commission (EEOC), the State and/or Local Fair Employment Practice (FEP) agency, and/or other governmental agencies. Additionally, OFCCP requested additional information from Oracle during the compliance review that Oracle withheld (*see* Amended Complaint ¶¶ 11-15) that is relevant to a determination of whether Oracle complied with the requirements of the Executive Order and the regulations.

During the compliance review of Oracle headquarters, OFCCP evaluated and analyzed Oracle's recruiting and hiring information and evidence gathered in the investigation and found statistically significant hiring disparities based on race. OFCCP used U.S. Census data and other workforce data reflecting the potential applicant and hiring pools to evaluate recruiting and hiring decisions for U.S. jobs. This data use is consistent with Title VII and relevant case law to perform this analysis because it was inappropriate to use Oracle's pools.

Specifically, an analysis of Oracle's Professional Technical 1, Individual Contributor ("PT1") applicant data uncovered gross disparities between the expected applicant rate (availability) and the actual applicant rate. In these entry-level technical roles, the Asian applicant rate was over 75%, compared to less than 30% in the available workforce in the relevant labor market. Among Oracle's college applicants, the overrepresentation of Asians was even more extreme: the Asian applicant rate was 85% in 2013 and 92% in 2014. Based upon this data and OFCCP's analysis of Oracle's applicant data and appropriate workforce availability statistics, OFCCP found that Oracle favored Asian applicants, particularly Asian Indians, in recruiting at a standard deviation as significant as +85 and found race disparities in Oracle's recruiting practices against African Americans, Hispanic and White applicants.

Similarly, OFCCP found gross disparities between the available workforce in the relevant U.S. labor market and Oracle's hires in PT1. In PT1 roles, OFCCP found race disparities in Oracle's hiring practices against African American, Hispanic and White applicants. Notably, even

with such a skewed applicant pool in favor of Asians, Oracle's Asian hiring rate significantly exceeded it – by more than 6%. Compared to approximately 75% Asian applicants (and 74% Asian incumbents), Oracle hired over 82% Asians in PT1 roles during the review period. OFCCP's analysis of Oracle's hiring data and appropriate workforce availability statistics show that Oracle favored Asian applicants, particularly Asian Indians, in hiring at a standard deviation as significant as +30.

Additional evidence, including anecdotal evidence, also reinforces that these gross statistical findings are not due to chance. OFCCP obtained statements from confidential sources evincing Oracle's reputation as favoring Asians, specifically Asian Indians. Additionally, Oracle's reputation is consistent with its recruiting efforts for engineering roles, which target Asian Indians. Oracle's recruiting priorities on its website has it directly recruiting entry-level software positions from India despite the oversupply of STEM graduates in the United States.

Furthermore, Oracle has a longstanding and well-known preference of sponsoring H1B visas almost exclusively for employees from Asia and particularly India. Over 92% of all of Oracle's H1B employees are Asian. Such preference is most pronounced in entry-level technical roles (or PT1 roles). Nearly one third of Oracle's PT1 workforce are H1B employees, compared to 13% of Oracle's overall workforce. Across Oracle's headquarters, approximately 90% of H1B employees work in PT1 roles.

Moreover, despite this heavy concentration of Asians in Oracle's workforce, Oracle relied on word-of-mouth recruiting practices, which further perpetuated already existing disparities. In PT1, most successful employment referrals (or referrals that lead to a hire) originate from Asians. For technical jobs, approximately 74% of successful referrals come from PT1 employees, and approximately 80% of the referrals come from Asians.

Thus, based upon the analyses conducted and the evidence gathered during the compliance evaluation, OFCCP found that Oracle recruited, selected, and hired Asian applicants, particularly Asian Indians, for PT1 roles at a rate significantly greater than their non-Asian counterparts and Oracle's recruiting and hiring practices resulted in discrimination against African American, Hispanic, and White applicants. OFCCP will supplement this response as more documents and data are produced during discovery under the supervision of the office of administrative law judges.

Discussion

Within thirty days of the date of issuance of this Order, Plaintiff must amend this Response to specify the facts known to it which support the quoted allegation. The response set forth above merely suggests that Plaintiff drew conclusions from sources it has identified. It must specify the conclusions it drew and explain how the data supports those conclusions.

Interrogatory No. 18

Defendant's Interrogatory No. 18: Identify by name and last known contact information each PERSON with knowledge of the facts alleged in Paragraph 10 of the Amended Complaint, including the nature of the facts of which the PERSON identified has knowledge.

Plaintiff's Response: OFCCP incorporates the general objections stated above, and further objects to this Interrogatory to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government's deliberative process privilege, the governmental privilege for investigative files and techniques, the government's informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP further objects to the Interrogatory on the basis that it is compound, vague and ambiguous as to "nature of the facts," "knowledge of the facts," and "contact information." "Nature of facts" is so unintelligible that it is unclear what Oracle is seeking. For example, is nature of the facts the date the person acquired the facts, how he acquired the facts, who he acquired the facts from, the contents of the facts, when the facts occurred, who observed or witnessed the facts, etc. In terms of knowledge of the facts: it is not known if Oracle was referring to personal knowledge, constructive knowledge, third-hand knowledge, hearsay knowledge, etc. It is not clear what Oracle means by contact information, is it a person *[sic]* home telephone number, is it a person's business address, etc. *[sic]*

OFCCP also objects to the Interrogatory as being unduly burdensome, overly broad, not relevant, oppressive and not proportional to the case because for OFCCP to truly answer this request, OFCCP would need to literally interview thousands of Oracle employees to include employees in supervisory and management positions to ascertain everyone who has knowledge of the discrimination.

OFCCP again objects to the Interrogatory as being unduly burdensome, overly broad, not relevant, oppressive and not proportional to the case for OFCCP to interview potentially thousands of employees to obtain their last known contact information when Oracle is already in possession of this information.

OFCCP still further objects because the Interrogatory calls for speculation if Oracle does not make everyone available to OFCCP who might have knowledge of the discrimination so that OFCCP can identify all of the people who have knowledge of the discrimination.

OFCCP objects to this Interrogatory as overly overbroad, unduly burdensome, oppressive, not relevant, and not proportional to the needs of the case with respect to the term "all facts" if the nature of the facts includes every fact, however, minor *[sic]* that the person knows regardless of how the person obtained knowledge of the alleged fact.

OFCCP objects to this interrogatory as it is making two distinct information requests in one interrogatory – identify the name, job title and contact information of the person with

knowledge, and the content/nature of this knowledge. OFCCP will count this as two interrogatories.

To the extent that the following objection that Defendant used during written discovery is a valid objection since the parties are meeting and conferring about it: the re-request/Interrogatory “requires [the party answering the written discovery] to refer to materials outside of the request itself,” OFCCP makes this objection here because this Interrogatory referred to materials outside of the Interrogatory itself.¹³

OFCCP further objects to the request to the extent it seeks each individual’s contact information on the grounds of the Privacy Act and that they are represented by counsel. OFCCP’s personnel (current or former) may be contacted through OFCCP’s counsel at the Office of the Solicitor.

Subject to and without waiving the foregoing objections, OFCCP responds that the following persons, excluding OFCCP attorneys at the Office of the Solicitor, may have knowledge of the facts giving rise to the allegations made in the Amended Complaint include *[sic]*: Oracle employees, supervisors and managers employed by Oracle during the review period; former employees, supervisors and managers of Oracle; and OFCCP personnel listed in response to Interrogatory No. 1. OFCCP will supplement this response as more documents and data are produced during discovery under the supervision of the office of administrative law judges.

Discussion

Again, this interrogatory asks Plaintiff to identify potential witnesses with knowledge of “the facts alleged in Paragraph 10 of the Amended Complaint.” Paragraph 10 of the Amended Complaint alleges numerous facts. Given this limitation, to the extent it has not already done so, Plaintiff must, within thirty days of issuance of this Order, identify all persons (other than persons affiliated with Defendant) who have knowledge of the material facts alleged in Paragraph 10 of the Amended Complaint.

Interrogatory No. 19

Defendant’s Interrogatory No. 19: As to each “non-Asian” allegedly discriminated against as referenced in Paragraph 10 of the Amended Complaint, described *[sic]* how the “non-Asian” not hired was equally or better qualified than the Asian hired in that “non-Asian” person’s stead.

Plaintiff’s Response: OFCCP incorporates the general objections stated above, and further objects to this Interrogatory to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government’s deliberative process privilege, the governmental privilege for investigative files and techniques, the government’s informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules

¹³ *Id.*

of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP objects to this contention Interrogatory as overly broad and unduly burdensome because OFCCP should be provided the opportunity to conduct discovery and maintain flexibility about its contentions before responding to contention interrogatories, as the information necessary to respond to this Interrogatory becomes more readily available. See cases cited in General Objection No. 1. OFCCP further objects to this Interrogatory as premature because OFCCP has only obtained minimal discovery from Oracle because Oracle refused to provide a person for the Rule 30(b)(6) deposition that OFCCP noticed, refused to produce any documents pending a protective order to include not even producing responsive documents that were not covered by the protective order, and has produced information responsive to only a fraction of OFCCP's discovery requests. Furthermore, OFCCP objects to this premature interrogatory because Oracle is attempting to benefit from the unclean hands of repeatedly failing to produce requested information during the compliance review and obstructing OFCCP's ability to acquire this same information during discovery. For example, as repeatedly identified in the documents that OFCCP produced during this litigation and the underlying investigation, Oracle failed to produce: applicant and hiring data, such as data regarding name of school attended and prior degrees earned, years of prior work experience and prior salary before being hired by Oracle, compensation data such as the 1/13/13 snapshot, Oracle's pay equity analysis, employee personnel actions, employee contact information, data for the 2012 applicant flow log, internal complaints, external arbitration complaints, documents regarding compensation and hiring, etc. Additionally, in this litigation, Oracle, in its written document production responses identified that it would not be producing any responsive documents for 55 requests or 60% of OFCCP's document production requests. This failure to produce is in addition to refusing to produce a person for the Rule 30(b)(6) deposition that OFCCP noticed. Moreover, this Interrogatory is premature to the extent it will be the subject of forthcoming expert testimony. Finally, OFCCP objects to this interrogatory insofar as it seeks disclosure of information protected under Fed. R. Civ. P. 26(b)(4)(D).

OFCCP further objects that this interrogatory is compound, and has vague, and ambiguous terms such as "equally or better qualified" and "person's stead." In terms of "equally or better qualified," it is not clear which quality or characteristic or combination thereof that Oracle is referring [*sic*]. In terms of person's stead, it is not clear if Oracle in referring to the advantage brought by a person standing in good stead or in the position of a replacement or successor when the Asian did not replace the non-Asian but instead was hired instead of the non-Asian.

Subject to and without waiving the foregoing objections, OFCCP incorporates herein its response to Interrogatory No. 17, its statements in the Amended Complaint and refers Oracle to the responsive documents that it produced during discovery, including, but not limited to, the NOV and Attachment, and the hiring databases that Oracle provided to OFCCP and the application materials it provided to include iRecruitment documents, resumes and the recruiting and hiring information in the personnel files. OFCCP will supplement this response as more

documents and data are produced during discovery under the supervision of the office of administrative law judges.

Discussion

The court overrules Plaintiff's objections. Within thirty days of the issuance of this Order, Plaintiff must specify all facts known to it which support the allegation cited in the interrogatory.

Interrogatory No. 20

Defendant's Interrogatory No 20: State all facts that support the allegation in Paragraph 10 of the Amended Complaint that Oracle's hiring practices resulted in statistically significant adverse impact against non-Asian employees and statistically significant disparities in the hiring of Asians versus non-Asians, including the statistical data used, the analysis and methodologies used, and the computations used.

Plaintiff's Response: OFCCP incorporates the general objections stated above, and further objects to this Interrogatory to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government's deliberative process privilege, the governmental privilege for investigative files and techniques, the government's informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP objects to this Interrogatory to the extent it implies that OFCCP was required to allege statistical data. Statistical data supporting OFCCP's claims of discrimination will be developed and refined, during and after discovery. Tying OFCCP to a particular set of statistics at the pleading stage would be both unfair and inefficient. The time for assessing OFCCP's statistical evidence, including whether it accounts for all relevant variables, is after discovery is closed and the case is tried. Further, it is impossible for OFCCP to make any refinements to statistics in this case until Defendants produce the myriad relevant records they refused to provide to OFCCP and have not yet produced in discovery.

OFCCP objects to this contention Interrogatory as overly broad and unduly burdensome because OFCCP should be provided the opportunity to conduct discovery and maintain flexibility about its contentions before responding to contention interrogatories, as the information necessary to respond to this Interrogatory becomes more readily available. See cases cited in General Objection No. 1. OFCCP further objects to this Interrogatory as premature because OFCCP has only obtained minimal discovery from Oracle because Oracle refused to provide a person for the Rule 30(b)(6) deposition that OFCCP noticed, refused to produce any documents pending a protective order to include not even producing responsive documents that were not covered by the protective order, and has produced information responsive to only a fraction of OFCCP's discovery requests. Furthermore, OFCCP objects to this premature interrogatory because Oracle is attempting to benefit from the unclean hands of repeatedly failing to produce

requested information during the compliance review and obstructing OFCCP's ability to acquire this same information during discovery. For example, as repeatedly identified in the documents that OFCCP produced during this litigation and the underlying investigation, Oracle failed to produce: applicant and hiring data, such as data regarding name of school attended and prior degrees earned, years of prior work experience and prior salary before being hired by Oracle, compensation data such as the 1/13/13 snapshot, Oracle's pay equity analysis, employee personnel actions, employee contact information, data for the 2012 applicant flow log, internal complaints, external arbitration complaints, documents regarding compensation and hiring, etc. Additionally, in this litigation, Oracle, in its written document production responses identified that it would not be producing any responsive documents for 55 requests or 60% of OFCCP's document production requests. This failure to produce is in addition to refusing to produce a person for the Rule 30(b)(6) deposition that OFCCP noticed. Moreover, this Interrogatory is premature to the extent it will be the subject of forthcoming expert testimony. Finally, OFCCP objects to this interrogatory insofar as it seeks disclosure of information protected under Fed. R. Civ. P. 26(b)(4)(D).

OFCCP likewise objects to the terms "statistical data used," "the analysis and methodologies used," the computations used." [Sic] For these latter three terms the context of "used" is not known and it is not clear which "statistical data," "analysis," "methodologies" and "computations" that Oracle is referring [sic].

OFCCP objects to this Interrogatory as overbroad, unduly burdensome, oppressive, not relevant, and not proportional to the needs of the case with respect to the term "all facts" because this term is not confined to the principal or material facts of the case, but seeks the identity of each and every fact, however minor, that may relate to the case.

OFCCP further objects to producing any in-house statistical analyses performed to include the data, methodology and computations that OFCCP employed. This information is protected under the various privileges asserted above, is irrelevant, and is not proportional to the needs of the case.

To the extent that the following objection that Defendant used during written discovery is a valid objection since the parties are meeting and conferring about it: the request/Interrogatory "requires [the party answering the written discovery] to refer to materials outside of the request itself," OFCCP makes this objection here because this Interrogatory referred to materials outside of the Interrogatory itself.¹⁴

Subject to and without waiving the foregoing objections, OFCCP incorporates herein its responses to Interrogatory No. 17, its statements in the Amended Complaint and refers Oracle to the responsive documents that it produced during discovery, including, but not limited to, the NOV and Attachment, and the hiring database that Oracle provided to OFCCP for the 2014 snapshot and the application materials it provided to include iRecruitment documents, resumes and the recruiting and hiring information in the personnel files. During the compliance review

¹⁴ *Id.*

of Oracle headquarters, OFCCP evaluated and analyzed Oracle's recruiting and hiring information and evidence gathered in the investigation found statistically significant hiring disparities based on race. OFCCP's analysis of Oracle's applicant data and appropriate workforce availability statistics show that Oracle favored Asian applicants, particularly Asian Indians, in recruiting at a standard deviation as significant as +85. Additionally, an analysis of Oracle's hiring data and appropriate workforce availability statistics show that Oracle favored Asian applicants, particularly Asian Indians, in hiring at a standard deviation as significant as +30. Based upon the analyses conducted and the evidence gathered during the compliance evaluation, OFCCP found that Oracle recruited, selected, and hired Asian applicants, particularly Asian Indians, in the referenced groups at a rate significantly greater than their non-Asian counterparts and Oracle's recruiting and hiring practices resulted in discrimination against African American, Hispanic, and White applicants. OFCCP will supplement this response as more documents and data are produced during discovery under the supervision of the office of administrative law judges.

Discussion

The court overrules Plaintiff's objections to this interrogatory. Within thirty days of the issuance of this Order, Plaintiff must specify all facts known to it which support the allegation cited in the interrogatory.

Interrogatory No. 21

Defendant's Interrogatory No. 21: State all facts that support the allegation in Paragraph 12 and 13 of the Amended Complaint that YOU requested "various records" that Oracle "refused to produce," including a description of the specific records YOU requested, the date(s) on which YOU requested the records, the date(s) on which YOU contend that Oracle refused to produce those records, the PERSON that refused to produce the records, and the COMMUNICATION reflecting the refusal.

Plaintiff's Response: OFCCP incorporates the general objections stated above, and further objects to this Interrogatory to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government's deliberative process privilege, the governmental privilege for investigative files and techniques, the government's informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP objects to this contention Interrogatory as overly broad and unduly burdensome because OFCCP should be provided the opportunity to conduct discovery and maintain flexibility about its contentions before responding to contention interrogatories, as the information necessary to respond to this Interrogatory becomes more readily available. See cases cited in General Objection No. 1. OFCCP further objects to this Interrogatory as premature because OFCCP has only obtained minimal discovery from Oracle because Oracle refused to provide a person for the Rule 30(b)(6) deposition that OFCCP noticed, refused to produce any documents

pending a protective order to include not even producing responsive documents that were not covered by the protective order, and has produced information responsive to only a fraction of OFCCP's discovery requests. Furthermore, OFCCP objects to this premature interrogatory because Oracle is attempting to benefit from the unclean hands of repeatedly failing to produce requested information during the compliance review and obstructing OFCCP's ability to acquire this same information during discovery. For example, as repeatedly identified in the documents that OFCCP produced during this litigation and the underlying investigation, Oracle failed to produce: applicant and hiring data, such as data regarding name of school attended and prior degrees earned, years of prior work experience and prior salary before being hired by Oracle, compensation data such as at the 1/13/13 snapshot, Oracle's pay equity analysis, employee personnel actions, employee contact information, data for the 2012 applicant flow log, internal complaints, external arbitration complaints, documents regarding compensation and hiring, etc. Additionally, in this litigation, Oracle, in its written document production responses identified that it would not be producing any responsive documents for 55 requests or 60% of OFCCP's document production requests. This failure to produce is in addition to refusing to produce a person for the Rule 30(b)(6) deposition that OFCCP noticed. Moreover, this Interrogatory is premature to the extent it will be the subject of forthcoming expert testimony. Finally, OFCCP objects to this interrogatory insofar as it seeks disclosure of information protected under Fed. R. Civ. P. 26(b)(4)(D).

OFCCP likewise objects to this Interrogatory as vague and ambiguous because it simultaneously refers to two different paragraphs in the complaint containing different allegations and then it requests the facts to support just one of the allegations located therein when it states "[s]tate all facts that support the allegation in Paragraph 12 and 13." It is not clear which allegation to which Oracle is referring.

OFCCP further objects to this Interrogatory as vague and ambiguous for the following terms "description of the specific records" "refused to produce," and "communication reflecting the refusal." For example, it is not known what Oracle is requesting when it requests a description of the records. Is it the record's title, database, or snapshot; date of record or snapshot; author or custodian of record or data base, etc.? [Sic] The parties have provided each other with different definitions of what constitutes "refusal to produce" during the investigation and it is not clear what definition Oracle is referring to in this Interrogatory. Additionally, it is not clear what Oracle means by "reflecting the refusal." Does this term mean only those communications wherein Oracle actually used the word "refusal" or some deviation of this word; does Oracle mean communications that evidence this refusal, etc.? Furthermore, Oracle just defined communication to oral or documents and not to a party's action or inactions. Thus, its definition of communication is artificially constrained and any response using this definition would be incomplete.

OFCCP objects to this Interrogatory as overly overbroad, unduly burdensome, oppressive, not relevant, and not proportional to the needs of the case with respect to the term "all facts" because this term is not confined to the principal or material facts of the case, but seeks the identity of each and every fact, however minor, that may relate to the claim.

OFCCP also objects to the Interrogatory as being unduly burdensome, overly broad, not relevant, oppressive and not proportional to the case because for OFCCP to truly answer this Interrogatory, OFCCP would need to literally interview thousands of Oracle employees to include employees in supervisory and management positions to ascertain every person who took part in Oracle's refusal to provide OFCCP the requested information, data and documents and to identify all of their related communications.

OFCCP still further objects because the Interrogatory calls for speculation if Oracle does not make everyone available to OFCCP who might have knowledge of Oracle's failure to conduct the reviews and analysis so that OFCCP can identify all of the people involved and their related communications.

OFCCP again objects to the Interrogatory as being unduly burdensome, overly broad, not relevant, oppressive and not proportional to the case for OFCCP to create a compendium from communications that Oracle is already in possession of these communications [*sic*].

OFCCP objects to the interrogatory as it is making five distinct information requests in one interrogatory: (1) description of the specific records requested; (2) dates records were requested; (3) dates Oracle refused to provide the records; (4) the person that refused to provide the records; and (5) the communications reflecting the refusal.

OFCCP objects to this interrogatory because Oracle, with this interrogatory, makes its 25th interrogatory when seeking information about the "description of the specific records requested" and exceeds the 25 interrogatory limit for the four additional items listed in the previous paragraph.

Subject to and without waiving the foregoing objections, OFCCP will only answer this Interrogatory for a description of the specific records requested. OFCCP incorporates herein its statements in the Amended Complaint and refers Oracle to the responsive documents that it produced during discovery, including, but not limited to, the NOV and Attachment, and the compensation database that Oracle provided to OFCCP for the 2014 snapshot and the correspondence between the parties. The categories of information that Oracle refused to produce are: pay equity analysis pursuant to 41 C.F.R. § 60-2.17, some fields of information for the 2014 snapshot; data for the 2013 snapshot, employee contact information, internal complaints, external arbitration complaints and data for the 2012 applicant flow log. Furthermore, Oracle refused to produce most of the various employer personnel actions requested, and a significant amount of the application materials requested. OFCCP will supplement this response as more documents and data are produced during discovery under the supervision of the office of administrative law judges.

Discussion

The court sustains Plaintiff's objection to this Interrogatory as not proportional to the needs of the case. Defendant presumably already knows what Plaintiff

did, or did not, demand of Defendant, and also knows how it responded. Plaintiff need not provide a further response to this interrogatory.

Interrogatory No. 22

Defendant's Interrogatory No. 22: Identify by name and last known contact information each PERSON with knowledge of the facts alleged in Paragraphs 12 and 13 of the Amended Complaint, including the nature of the facts of which the PERSON identified has knowledge.

Plaintiff's Response: OFCCP incorporates the general objections stated above, and further objects to this Interrogatory to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government's deliberative process privilege, the governmental privilege for investigative files and techniques, the government's informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP further objects to the Interrogatory on the basis that it is compound, vague and ambiguous as to "nature of the facts," "knowledge of the facts," and "contact information." "Nature of facts" is so unintelligible that it is unclear what Oracle is seeking. For example, is nature of the facts the date the person acquired the facts, how he acquired the facts, who he acquired the facts from, the contents of the facts, when the facts occurred, who observed or witnessed the facts, etc. In terms of knowledge of the facts: it is not known if Oracle was referring to personal knowledge, constructive knowledge, third-hand knowledge, hearsay knowledge, etc. It is not clear what Oracle means by contact information, is it a person [sic] home telephone number, is it a person's business address, etc. [sic]

OFCCP also objects to the Interrogatory as being unduly burdensome, overly broad, not relevant, oppressive and not proportional to the case because for OFCCP to truly answer this request, OFCCP would need to literally interview thousands of Oracle employees to include employees in supervisory and management positions to ascertain everyone who has knowledge of the discrimination.

OFCCP again objects to the Interrogatory as being unduly burdensome, overly broad, not relevant, oppressive and not proportional to the case for OFCCP to interview potentially thousands of employees to obtain their last known contact information when Oracle is already in possession of this information.

OFCCP still further objects because the Interrogatory calls for speculation if Oracle does not make everyone available to OFCCP who might have knowledge of the discrimination so that OFCCP can identify all of the people who have knowledge of the discrimination.

OFCCP objects to this Interrogatory as overly overbroad, unduly burdensome, oppressive, not relevant, and not proportional to the needs of the case with respect to the term "all

facts” if the nature of the facts includes every fact, however, minor [*sic*] that the person knows regardless of how the person obtained knowledge of the alleged fact.

OFCCP objects to this interrogatory as it is making two distinct information requests in one interrogatory – identify the name, job title and contact information of the person with knowledge, and the content/nature of this knowledge. OFCCP will count this as two interrogatories.

To the extent that the following objection that Defendant used during written discovery is a valid objection since the parties are meeting and conferring about it: the request/Interrogatory “requires [the party answering the written discovery] to refer to materials outside of the request itself,” OFCCP makes this objection here because this Interrogatory referred to materials outside of the Interrogatory itself.¹⁵

OFCCP further objects to the request to the extent it seeks each individual’s contact information on the grounds of the Privacy Act and that they are represented by counsel. OFCCP’s personnel (current or former) may be contacted through OFCCP’s counsel at the Office of the Solicitor.

OFCCP objects to this interrogatory because Oracle has already asked more than 25 interrogatories because four of its previous interrogatories contained two subparts each, another Interrogatory contained five subparts, and this Interrogatory contains two subparts. As such, Oracle exceeded the number of interrogatories that it can make without a court order.

Subject to and without waiving the foregoing objections, OFCCP declines to answer this Interrogatory because Oracle exceeded the number of interrogatories allowed without court order.

Discussion

Again, this interrogatory asks Plaintiff to identify potential witnesses with knowledge of “the facts alleged in Paragraphs 12 and 13 of the Amended Complaint.” Paragraphs 12 and 13 of the Amended Complaint allege numerous facts. Nevertheless, within thirty days of the issuance of this Order, Plaintiff must identify persons (other than persons affiliated with Defendant) having knowledge of the material facts alleged in Paragraphs 12 and 13 of the Amended Complaint.

Interrogatory No. 23

Defendant’s Interrogatory No. 23: State all facts that support the allegation in Paragraph 14 of the Amended Complaint that Oracle “defaulted on its obligations under 41 sections 60-2.17(b)-(d), 60-315A, and 60-3.4, including a description of the specific “reviews and analysis” that YOU contend Oracle failed to conduct, the date(s) on which YOU contend that Oracle

¹⁵ *Id.*

refused to produce those reviews and analysis, the PERSON that refused to produce the reviews and analysis, and the COMMUNICATION reflecting the refusal.

Plaintiff's Response: OFCCP incorporates the general objections stated above, and further objects to this Interrogatory to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government's deliberative process privilege, the governmental privilege for investigative files and techniques, the government's informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP objects to this contention Interrogatory as overly broad and unduly burdensome because OFCCP should be provided the opportunity to conduct discovery and maintain flexibility about its contentions before responding to contention interrogatories, as the information necessary to respond to this Interrogatory becomes more readily available. See cases cited in General Objection No. 1. OFCCP further objects to this Interrogatory as premature because OFCCP has only obtained minimal discovery from Oracle because Oracle refused to provide a person for the Rule 30(b)(6) deposition that OFCCP noticed, refused to produce any documents pending a protective order to include not even producing responsive documents that were not covered by the protective order, and has produced information responsive to only a fraction of OFCCP's discovery requests. Furthermore, OFCCP objects to this premature interrogatory because Oracle is attempting to benefit from the unclean hands of repeatedly failing to produce requested information during the compliance review and obstructing OFCCP's ability to acquire this same information during discovery. For example, as repeatedly identified in the documents that OFCCP produced during this litigation and the underlying investigation, Oracle failed to produce: applicant and hiring data, such as data regarding name of school attended and prior degrees earned, years of prior work experience and prior salary before being hired by Oracle, compensation data such as the 1/13/13 snapshot, Oracle's pay equity analysis, employee personnel actions, employee contact information, data for the 2012 applicant flow log, internal complaints, external arbitration complaints, documents regarding compensation and hiring, etc. Additionally, in this litigation, Oracle, in its written document production responses identified that it would not be producing any responsive documents for 55 requests or 60% of OFCCP's document production requests. This failure to produce is in addition to refusing to produce a person for the Rule 30(b)(6) deposition that OFCCP noticed. Moreover, this Interrogatory is premature to the extent it will be the subject of forthcoming expert testimony. Finally, OFCCP objects to this interrogatory insofar as it seeks disclosure of information protected under Fed. R. Civ. P. 26(b)(4)(D).

OFCCP further objects to this Interrogatory as vague and ambiguous for the following terms "description of the specific 'reviews and analysis,'" "Oracle failed to conduct," "Oracle refused to produce those reviews and analysis" and "communication reflecting the refusal." For example, it is not known what Oracle is requesting when it requests a description. Is it the title of the review, the particular requirement or regulation requiring the review, what the review concerned, etc.? The parties have provided each other with different definitions of what

constitutes “refusal to produce” during the investigation and litigation and it is not clear what definition Oracle is referring to in this Interrogatory. Additionally, it is not clear what Oracle means by “reflecting the refusal.” For example, does this term mean only those communications wherein Oracle actually used the word “refusal” or some deviation of this word; does Oracle mean communications that evidence this refusal, etc.? Furthermore, Oracle just defined communication to oral or documents and not to a party’s action or inactions. Thus, its definition of communication is artificially constrained and any response using this definition would be incomplete. It is also not clear what Oracle means by “failure to conduct.” For example, does this term mean only those communications wherein Oracle actually stated that it failed to conduct the review; does it mean communications that Oracle repeatedly failed to provide evidence that it conducted the review after repeated requests, etc.?

OFCCP objects to this Interrogatory as overly overbroad, unduly burdensome, oppressive, not relevant, and not proportional to the needs of the case with respect to the term “all facts” because this term is not confined to the principal or material facts of the case, but seeks the identity of each and every fact, however minor, that may relate to the claim.

OFCCP also objects to the Interrogatory as being unduly burdensome, overly broad, not relevant, oppressive and not proportional to the case because for OFCCP to truly answer this Interrogatory, OFCCP would need to literally interview thousands of Oracle employees to include employees in supervisory and management positions to ascertain every person who took part in Oracle’s refusal to provide OFCCP the requested information, data and documents and to identify all of their related communications.

OFCCP still further objects because the Interrogatory calls for speculation if Oracle does not make everyone available to OFCCP who might have knowledge of Oracle’s failure to conduct the reviews and analysis so that OFCCP can identify all of the people involved and their related communications.

OFCCP again objects to the Interrogatory as being unduly burdensome, overly broad, not relevant, oppressive and not proportional to the case for OFCCP to create a compendium from communications that Oracle is already in possession of these communications *[sic]*.

OFCCP still further objects because the Interrogatory calls for speculation if Oracle does not make everyone available to OFCCP who might have knowledge of Oracle’s failure to conduct the reviews and analysis so that OFCCP can identify all of the people involved and their related communications.

OFCCP objects to this interrogatory as it is making four distinct information requests in one interrogatory: (1) description of the specific “reviews and analysis” that Oracle failed to conduct; (2) dates Oracle refused to produce reviews; (3) the person that refused to provide the reviews; and (4) the communications reflecting the refusal.

OFCCP objects to this interrogatory because Oracle has already asked the equivalent of 25 interrogatories in that five of its previous interrogatories contained two subparts each, an-

other Interrogatory contained five subparts and this Interrogatory contained four subparts. As such, Oracle exceeded the number of interrogatories that it can make without a court order.

Subject to and without waiving the foregoing objections, OFCCP declines to answer this Interrogatory because Oracle exceeded the number of interrogatories allowed without court order.

Discussion

The court overrules Plaintiff's objections to this interrogatory. Within thirty days of the issuance of this Order, Plaintiff must answer this interrogatory.

Interrogatory No. 24

Defendant's Interrogatory No. 24: Describe in detail any anecdotal evidence of discrimination YOU contend supports any allegation in the Amended Complaint.

Plaintiff's Response: OFCCP incorporates the general objections stated above, and further objects to this Interrogatory to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government's deliberative process privilege, the governmental privilege for investigative files and techniques, the government's informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP objects to this contention Interrogatory as overly broad and unduly burdensome because OFCCP should be provided the opportunity to conduct discovery and maintain flexibility about its contentions before responding to contention interrogatories, as the information necessary to respond to this Interrogatory becomes more readily available. See cases cited in General Objection No. 1. OFCCP further objects to this Interrogatory as premature because OFCCP has only obtained minimal discovery from Oracle because Oracle refused to provide a person for the Rule 30(b)(6) deposition that OFCCP noticed, refused to produce any documents pending a protective order to include not even producing responsive documents that were not covered by the protective order, and has produced information responsive to only a fraction of OFCCP's discovery requests. Furthermore, OFCCP objects to this premature interrogatory because Oracle is attempting to benefit from the unclean hands of repeatedly failing to produce requested information during the compliance review and obstructing OFCCP's ability to acquire this same information during discovery. For example, as repeatedly identified in the documents that OFCCP produced during this litigation and the underlying investigation, Oracle failed to produce: applicant and hiring data, such as data regarding name of school attended and prior degrees earned, years of prior work experience and prior salary before being hired by Oracle, compensation data such as the 1/13/13 snapshot, Oracle's pay equity analysis, employee personnel actions, employee contact information, data for the 2012 applicant flow log, internal complaints, external arbitration complaints, documents regarding compensation and hiring, etc. Additionally, in this litigation, Oracle, in its written document production responses identi-

fied that it would not be producing any responsive documents for 55 requests or 60% of OFCCP's document production requests. This failure to produce is in addition to refusing the produce a person for the Rule 30(b)(6) deposition that OFCCP noticed. Moreover, this Interrogatory is premature to the extent it will be the subject of forthcoming expert testimony. Finally, OFCCP objects to this interrogatory insofar as it seeks disclosure of information protected under Fed. R. Civ. P. 26(b)(4)(D).

OFCCP further objects on the ground that Oracle continues, against legal authorities, to withhold its employee contact information, preventing OFCCP from communicating with them in order to obtain further anecdotal evidence of unlawful discrimination. *See, e.g., OFCCP v. Jefferson County Board of Education*, Case No. 1990-OFC-4 (ALJ, Nov. 16, 1990) (granting OFCCP's motion to compel Defendant to provide "names, addresses, phone numbers, positions, dates of employment educational background, and previous employment for all hires for [a] two-year period."); *see also OFCCP v. American Airlines, Inc.*, Case No. 1994-OFC-9 (ALJ, Jan. 19, 1995) (ordering the defendant "to supply the requested telephone numbers and addresses for all former and current employees except those with authority to speak for the company; and, further, to supply addresses, either work addresses or home addresses, of former and current management employees with authority to bind the company for the limited purpose of allowing OFCCP to notice depositions."); *see also* 79 FR 55712-02, 2014 WL 4593912 (F.R.), Proposed Rules, 41 C.F.R. Part 60-1, RIN 1250-A A0g (interviewing "employees potentially impacted by discriminatory compensation" is "an invaluable way for [OFCCP] to determine whether compensation discrimination in violation of Executive Order 11246 has occurred and to support its statistical findings."); *see also Kasten v. St.-Gobain Performance Plastics Corp.*, 531 U.S. 1, 11-12 (2011) (in order to enforce the FLSA, the Secretary of Labor necessarily relies, "not upon 'continued detailed federal supervision of payrolls,' but upon 'information and complaints received from employees seeking to vindicate rights claimed to have been denied.'"); *see also E.E.O.C. v. McLane Co., Inc.*, 804 F.3d 1051, 1056-57 (9th Cir. 2015) (ordering employer to produce employee contact information).

OFCCP further objects to this Interrogatory as vague and ambiguous for the following terms "[d]escribe in detail," and "anecdotal evidence." For example, it is not known what Oracle is requesting when it requests for OFCCP to describe in detail, the level of detail needed and how much information constitutes sufficient detail. To the extent that Oracle's describe in detail means to state all facts, then OFCCP objects to this Interrogatory as overly overbroad, unduly burdensome, oppressive, not relevant, and not proportional to the needs of the case with respect to the term "all facts" because this term is not confined to the principal or material facts of the case, but seeks the identity of each and every fact, however minor, that may relate to the case. In terms of anecdotal evidence it is not clear what definition of evidence that Oracle is requesting OFCCP to provide and what it considers to be anecdotal as opposed to another form of evidence.

OFCCP objects to this interrogatory because Oracle has already asked the equivalent of 25 interrogatories in that five of its previous interrogatories contained two subparts each, another Interrogatory contained four subparts and still another Interrogatory contained five sub-

parts. As such, Oracle exceeded the number of interrogatories that it can make without a court order.

Subject to and without waiving the foregoing objections, OFCCP declines to answer this Interrogatory because Oracle exceeded the number of interrogatories allowed without court order.

Discussion

Plaintiff has itself used the term “anecdotal evidence” in its answer to Interrogatory No. 17 above, and so presumably knows what it is. The court overrules Plaintiff’s objection to this interrogatory. Within thirty days of issuance of this Order, Plaintiff must answer this interrogatory.

Interrogatory No. 25

Defendant’s Interrogatory No. 25: If YOU contend that any of the discrimination alleged in the Amended Complaint is based upon a theory of disparate impact, identify the policies, practices, procedures, and tests that YOU contend operate to have a disparate impact.

Plaintiff’s Response: OFCCP incorporates the general objections stated above, and further objects to this Interrogatory to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government’s deliberative process privilege, the governmental privilege for investigative files and techniques, the government’s informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP objects to this contention Interrogatory as overly broad and unduly burdensome because OFCCP should be provided the opportunity to conduct discovery and maintain flexibility about its contentions before responding to contention interrogatories, as the information necessary to respond to this Interrogatory becomes more readily available. See cases cited in General Objection No. 1. OFCCP further objects to this Interrogatory as premature because OFCCP has only obtained minimal discovery from Oracle because Oracle refused to provide a person for the Rule 30(b)(6) deposition that OFCCP noticed, refused to produce any documents pending a protective order to include not even producing responsive documents that were not covered by the protective order, and has produced information responsive to only a fraction of OFCCP’s discovery requests. Furthermore, OFCCP objects to this premature interrogatory because Oracle is attempting to benefit from the unclean hands of repeatedly failing to produce requested information during the compliance review and obstructing OFCCP’s ability to acquire this same information during discovery. For example, as repeatedly identified in the documents that OFCCP produced during this litigation and the underlying investigation, Oracle failed to produce: applicant and hiring data, such as data regarding name of school attended and prior degrees earned, years of prior work experience and prior salary before being hired by Oracle, compensation data such as at the 1/13/13 snapshot, Oracle’s pay equity analysis, employee per-

sonnel actions, employee contact information, data for the 2012 applicant flow log, internal complaints, external arbitration complaints, documents regarding compensation and hiring, etc. Additionally, in this litigation, Oracle, in its written document production responses identified that it would not be producing any responsive documents for 55 requests or 60% of OFCCP's document production requests. This failure to produce is in addition to refusing to produce a person for the Rule 30(b)(6) deposition that OFCCP noticed. Moreover, this Interrogatory is premature to the extent it will be the subject of forthcoming expert testimony. Finally, OFCCP objects to this interrogatory insofar as it seeks disclosure of information protected under Fed. R. Civ. P. 26(b)(4)(D).

OFCCP objects to this Interrogatory as compound, vague, and ambiguous with respect to the terms "identify," "policies," "procedures," "tests," and "operate." It is not clear what information Oracle is seeking to identify and what will constitute a sufficient identification. Is it the title of the policy or other terms referenced; is it the date they became effective, etc. It is not clear what Oracle considers a governing policy, practice, procedure to be, what constitutes an official or formal policy, practice or procedure of Oracle as opposed to an individual practice of an Oracle supervisor, etc. It is not clear what test Oracle is referring [*sic*]. Is it referring to a validity test or some other kind of test. [*Sic*] Operate is also vague and ambiguous. There are multiple ways that operate can be interpreted, does it mean how it functions, what Oracle created, how it is managed or run, etc.?

OFCCP objects to this interrogatory because Oracle has already asked the equivalent of 25 interrogatories in that five of its previous interrogatories contained two subparts each, another Interrogatory contained four subparts and still another Interrogatory contained five subparts. As such, Oracle exceeded the number of interrogatories that it can make without a court order.

Subject to and without waiving the foregoing objections, OFCCP declines to answer this Interrogatory because Oracle exceeded the number of interrogatories allowed without court order.

Discussion

The court overrules Plaintiff's objections. Plaintiff may not refuse to answer this question simply because it intends to gather additional evidence in the future. Within thirty days of the date of this Order, Plaintiff must answer this interrogatory.

III. **DEPOSITION TESTIMONY**

Under Rule 33(d)(3), methods of discovery may be used in any sequence, and discovery by one party does not delay discovery by another party, unless the parties stipulate, or the court orders, otherwise. Accordingly, within fifteen days of the issuance of this Order, OFCCP must designate witnesses in response to Defendant's

Rule 30(b)(6) notice (*see* Siniscalco Declaration, Exhibit “D”) and make them available for deposition forthwith.

ORDER

Defendant’s Motion to Compel is granted in part, and denied in part, as more specifically set forth above.

SO ORDERED.

CHRISTOPHER LARSEN
Administrative Law Judge