

UNITED STATES DEPARTMENT OF LABOR
OFFICE OF ADMINISTRATIVE LAW JUDGES

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

Plaintiff,

v.

ORACLE AMERICA, INC.

Defendant.

Case No. 2017-OFC-00006

RECEIVED

APR 10 2019

Office of Administrative Law Judges
San Francisco, Ca

DECLARATION OF LAURA C. BREMER IN SUPPORT OF OFCCP'S MOTION TO
COMPEL HISTORICAL DATA OF COMPARATOR EMPLOYEES

I, Laura C. Bremer, state and declare as follows:

1. I am a Senior Trial Attorney for the U.S. Department of Labor, Office of the Solicitor, and counsel of record for Plaintiff in this action. I submit this declaration in support of OFCCP's Motion to Compel Historical Data. I have personal knowledge of the matter set forth in this declaration, and I could and would competently testify thereto if called upon to do so.

2. In February 2017, soon after filing this action, OFCCP made broad requests for Oracle's "databases" in OFCCP's Second Set of Requests for Production (Nos. 73-76), a true and correct copy of which is attached as **Exhibit 1**. After making these requests, OFCCP interviewed Oracle witnesses about its systems and databases. Following these "systems" interviews, OFCCP made more specific requests for data in a letter dated June 30, 2017, a true and correct copy of which is attached as **Exhibit 2**. The letter stated that "in making the specific requests below, OFCCP does not waive its right to request additional data in the future."

Following the June 30, 2017 letter, the parties' general practice has been to make and respond to data requests in correspondence.

3. In October 2017, Oracle produced historical data for class members in response to OFCCP's June 30, 2017 request. A true and correct copy of the October 11, 2017 letter describing the data production is attached hereto as **Exhibit 3**. As described in the Appendix of the October 11, 2017 letter, Oracle produced approximately 50 data exports for individuals employed at HQCA in the Product Development, Support, and Information Technology job functions at any point from January 1, 2013 through January 17, 2017. The data production contained historical data from 1981 forward for Oracle's employees in the Product Development, Support, and Information Technology job functions at Oracle's headquarters ("HQCA") who were still working at Oracle during the period of 2013 to 2016.

4. The data Oracle produced lacked comparator data for employees who worked in the Product Development, Support, and Information Technology job functions at HQCA, at the same time as class members, but who departed prior to 2013.

5. OFCCP specifically requested the same historical data as Oracle produced for employees in the class for "every employee working in the Product Development, Information Technology AND Support Job Functions from January 1, 1985, through AND including December 31, 2012, whether OR not they were employees in one of these Job Functions after January 1, 2013" in OFCCP's Fifth Set of Requests for the Production of Documents, Request for Production (RFP) 178. a true and correct copy of which is attached hereto as **Exhibit 4**.

6. In addition, on February 15, 2019, in its letter requesting that Oracle produce additional data, OFCCP requested historic data for employees in the three job functions at issue, "even if they left HQCA before 2013." A true and correct copy of my letter to Orrick dated

February 15, 2019 is attached hereto as **Exhibit 5**. OFCCP and Oracle continued to meet and confer on this issue, and additional meet and confer correspondence regarding the historic data from February 27, 2019 to April 3, 2019 is attached hereto as **Exhibits 6**. I also met and conferred with Kathryn Mantoan by telephone on March 22, 2019 regarding the historic data.

7. After our telephonic meet and confer regarding OFCCP's request for historic data, I offered to further limit OFCCP's request to the data files listed below, asking that Oracle specifically update the following files that Oracle had produced for employees at HQCA from 2013 to 2016 with the historic information for employees at HQCA in the relevant job functions who left HQCA prior to 2013:

- Emp_Personal_Experience_Qualification_Assign_Details.xlsx (for each employee included, provides data showing demographics, historic educational background and experience, and prior assignments)
- Merged Assignment History, Medicare and Sal Admin.xlsx (for each employee included, contains historic salary and assignment data)
- gsi_cwb_detail.xlsx (for each employee included, contains data for historic compensation changes for various types of changes)
- gsi_comp_history.xlsx (for each employee included, contains history of base pay, bonuses, stock options, other compensation, and performance going back to 1985)
- AllEarnings.xlsx (for each employee included, provides amounts of compensation for the year (from 2003-2016), broken out by type of compensation)
- AllEarnings2.xlsx (for each employee included, shows various types of compensation and the amounts for each type from 2003-2016)
- Appraisal_Audit_All_Data.xls (for each employee included, provides history of appraisals)
- HQCA_IREC_DATA.xlsx (for each employee included, provides educational data and background information submitted when employees applied, along with starting offer)
- Any files that Oracle produces that include additional data regarding education and experience

Attached as **Exhibit 7** is a true and correct copy of the email I sent to Kathryn Mantoan on March 27, 2019 in which I identified the specific files containing the historical data OFCCP seeks. Of the approximately 50 data files Oracle produced on October 11, 2017 for the employees in the Product Development, Information Technology, and Support job functions at

HQCA at some time between 2013 and January 2017, OFCCP requests that 8 of these files be updated to include historic information for employees in the 3 job functions at issue, who left HQCA before 2013.

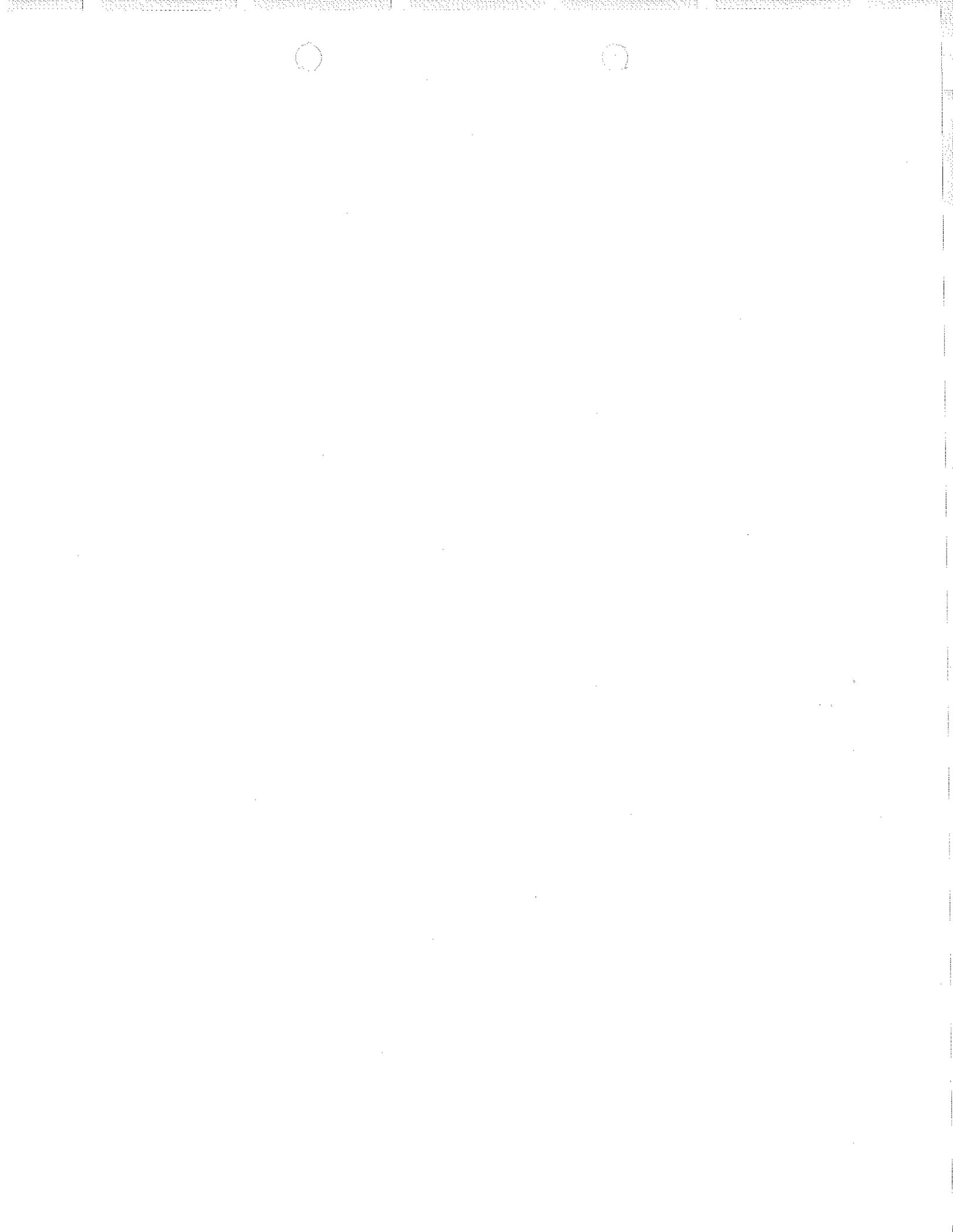
8. OFCCP also specifically identified these data files in its Sixth Set of Requests for Production, RFP No. 204, which requested that Oracle provide data for employees at HQCA in the 3 relevant job functions who left prior to 2013. Attached as **Exhibit 8** is a true and correct copy of OFCCP's RFP No. 204 for historical compensation data specifically identifying the data files to be supplemented.

9. On March 29, 2019, Oracle refused to produce the historic data. Oracle's March 29, 2019 meet and confer letter refusing to produce historical data is included in the attached Exhibit 6.

10. On April 3, 2019, I sent a final meet and confer letter to Kathryn Mantoan confirming that Oracle would not produce the historical data requested. The April 3, 2019 letter is included in the attached Exhibit 6.

I declare under the penalty of perjury that the foregoing is true and correct and that this declaration was executed in San Francisco, California on April 9, 2019.


LAURA C. BREMER
Senior Trial Attorney



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

OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS, UNITED STATES DEPARTMENT OF LABOR,	:	
	:	
Plaintiff,	:	OALJ Case No. 2017-OFC-00006
	:	
v.	:	OFCCP No. R00192699
	:	
ORACLE AMERICA, INC.,	:	
	:	
Defendant.	:	
	:	

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

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

DEFINITIONS

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

otherwise stated.

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

4. "AMENDED COMPLAINT" means the pleading filed by OFCCP in this action on January 25, 2017.

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

6. "ANSWER" means the Answer to the AMENDED COMPLAINT filed by YOU in this action on February 8, 2017.

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

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

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

10. "DATABASE" means any file or collection of information in fielded format that exists in computer-readable form.

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

12. "EXPERIENCED RECRUIT" means a PERSON who expresses interest or applies to YOU through the requisition process for technical (as opposed to sales) positions, including positions in the Professional Technical I, Individual Contributor job group or Product Development, Support, or Information Technology lines of business, and who is not already employed by YOU.

13. "GOVERNMENT CONTRACT" means a contract as defined in 41 C.F.R. § 60-1.3.

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

15. "LABOR CONDITION APPLICATIONS" means a Labor Condition Application for H-1B Nonimmigrants provided by the United States Department of Labor,

Employment and Training Administration.

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

17. "ORGANIZATIONAL CHART" means a graphic or written representation of the structure of YOUR business or any portion of YOUR business, which shows the relationships of the positions or jobs (including but not limited to reporting relationships) within each line of business, job function, or any other division or group as YOU have defined them in the normal course of YOUR business operations.

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

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

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

21. "POLICIES," "PRACTICES," or "PROCEDURES" means each rule, action, or directive, whether formal or informal, and each common understanding or course of conduct that was recognized as such by YOUR present or former officers, agents, employees, or other PERSONS acting or purporting to act on YOUR behalf or at YOUR direction, that was in effect

at any time during the RELEVANT TIME PERIOD. These terms include any changes that occurred during the RELEVANT TIME PERIOD.

22. "PROMOTION" means a change in an employee's job title, salary code, grade, or other ranking which results in an increase in COMPENSATION, responsibility, and/or other benefit.

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

24. "TRANSFER EMPLOYEE" means an individual previously employed by YOU (i.e., a rehire) or at the time of hire was employed by YOU (at YOUR headquarters or at any of YOUR other locations) or by a corporate affiliate of YOU (such as Oracle India Pvt. Ltd.).

INSTRUCTIONS

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

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

3. If any requested DOCUMENT was, but is no longer, in YOUR possession,

custody, or control, or is no longer in existence, state whether such DOCUMENT is:

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

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

4. These requests are intended to cover all DOCUMENTS in existence or in effect at any time during the RELEVANT TIME PERIOD. If any responsive DOCUMENTS have changed over the RELEVANT TIME PERIOD, produce all responsive DOCUMENTS, regardless of whether they reflect POLICIES, PRACTICES, or PROCEDURES that are no longer in effect.

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

the DOCUMENT was prepared and transmitted, to whom and from whom the DOCUMENT was transmitted, including copies thereof, the length of the DOCUMENT, the privilege(s) claimed, and the factual basis for the claim of privilege.

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

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

8. All DOCUMENT productions made in response to these requests must comply with OFCCP's technical specifications, which will be provided separately.

REQUESTS FOR PRODUCTION OF DOCUMENTS

30. DOCUMENTS, including but not limited to ORGANIZATIONAL CHARTS or lists, sufficient to identify any and all PERSON(S), by name and job title, with authority to affect an EXPERIENCED RECRUIT's disposition or HIRING, including PERSONS participating in job fairs, evaluating or screening expressions of interest, resumes and other application DOCUMENTS, interviewing applicants, making recommendations whether to hire applicants, and approving hires during the RELEVANT TIME PERIOD.

31. DOCUMENTS, including but not limited to ORGANIZATIONAL CHARTS or lists,

sufficient to identify any and all PERSON(S), by name and job title, with authority to affect a TRANSFER EMPLOYEE's disposition or HIRING, including PERSONS evaluating or screening expressions of interest, resumes and other application DOCUMENTS, interviewing applicants, making recommendations whether to hire applicants, and approving hires for technical positions, including positions in the PT1 job group or Product Development line of business during the RELEVANT TIME PERIOD.

32. DOCUMENTS, including but not limited to ORGANIZATIONAL CHARTS or lists, sufficient to identify the structure of, and any and all PERSON(S) (by name and job title) within, YOUR human resources and/or PERSONNEL department(s) during the RELEVANT TIME PERIOD, including but not limited to: the job positions that existed within the human resources and/or PERSONNEL department(s); the PERSONS who held those positions; and the reporting relationships between each individual and job position.

33. For each job position listed in the ORGANIZATIONAL CHARTS or lists identified in response to Request No. 32, produce all DOCUMENTS RELATING TO, or containing, a description of the specific functions, responsibilities, and tasks assigned and job duties to be performed.

34. All DOCUMENTS and COMMUNICATIONS RELATING TO YOUR POLICIES, PRACTICES, or PROCEDURES for HIRING EXPERIENCED RECRUITS during the RELEVANT TIME PERIOD, including but not limited to all DOCUMENTS and COMMUNICATIONS RELATING TO any criteria that YOU used to evaluate EXPERIENCED RECRUITS at any stage (i.e., screening, interview, post-interview, etc.) of the application process.

35. All DOCUMENTS and COMMUNICATIONS RELATING TO YOUR POLICIES,

PRACTICES, or PROCEDURES for HIRING TRANSFER EMPLOYEES during the RELEVANT TIME PERIOD, including but not limited to all DOCUMENTS and COMMUNICATIONS RELATING TO any criteria that YOU used to evaluate TRANSFER EMPLOYEES at any stage (i.e., screening, interview, post-interview, etc.) of the application process.

36. All DOCUMENTS and COMMUNICATIONS RELATING TO YOUR POLICIES, PRACTICES, or PROCEDURES for HIRING international TRANSFER EMPLOYEES during the RELEVANT TIME PERIOD, including but not limited to all DOCUMENTS and COMMUNICATIONS RELATING TO any criteria that YOU used to evaluate international TRANSFER EMPLOYEES at any stage (i.e., screening, interview, post-interview) of the application process.

37. All DOCUMENTS and COMMUNICATIONS RELATING TO events YOU were involved with (including but not limited to events YOU held, sponsored, attended, or sent materials [whether or not YOU attended], such as recruiting fairs, job fairs, events for AFFINITY GROUPS) RELATING TO HIRING EXPERIENCED RECRUITS during the RELEVANT TIME PERIOD.

38. All DOCUMENTS and COMMUNICATIONS RELATING TO events YOU were involved with (including but not limited to events YOU held, sponsored or attended, such as internal job fairs, events for AFFINITY GROUPS) RELATING TO HIRING TRANSFER EMPLOYEES for any technical positions, including all PT1 job group positions and all positions within the Product Development line of business during the RELEVANT TIME PERIOD.

39. All DOCUMENTS and COMMUNICATIONS exchanged between YOU and any recruiter (internal or external) RELATING TO HIRING EXPERIENCED RECRUITS during the

RELEVANT TIME PERIOD.

40. All DOCUMENTS and COMMUNICATIONS exchanged between YOU and any recruiter (internal or external) RELATING TO HIRING TRANSFER EMPLOYEES during the RELEVANT TIME PERIOD.

41. All DOCUMENTS and COMMUNICATIONS RELATING TO POLICIES, PRACTICES, or PROCEDURES (including but not limited to manuals or instructions) for searching external job boards or websites for potential HIRES during the RELEVANT TIME PERIOD.

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

43. All notes or records of interviews, whether by phone or in-person (including but not limited to memos, emails, and text messages), of TRANSFER EMPLOYEES who were interviewed for any PT1 job group positions or positions within the Product Development line of business during the RELEVANT TIME PERIOD.

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

45. All DOCUMENTS and COMMUNICATIONS (including but not limited to memos, emails, and text messages) stating, summarizing, supporting, or explaining YOUR decision or recommendation on a disposition of an expression of interest or application at any point of the HIRING process from a TRANSFER EMPLOYEE who applied for or expressed an interest for

any PT1 job group positions or positions within the Product Development line of business during the RELEVANT TIME PERIOD.

46. All COMMUNICATIONS (including by not limited to memos, emails, and text messages) to and from Joyce Westerdahl RELATING TO: HIRING; COMPENSATION; PROMOTIONS; diversity or affirmative action; race; gender; national origin; or complaints (whether formal or informal) regarding: discrimination (including but not limited to race or gender); retaliation; unfair treatment; unfair COMPENSATION; and/or hostile work environment.

47. All DOCUMENTS (e.g., applications, resumes, expressions of interest, transcripts, references) submitted by PERSONS expressing an interest in or applying for positions in the PT1 job group or Product Development line of business during the RELEVANT TIME PERIOD.

48. All DOCUMENTS (e.g., job postings, requisitions, e-mails) submitted from YOU to PERSONS expressing an interest in or applying for positions in the PT1 job group or Product Development line of business during the RELEVANT TIME PERIOD.

49. All DOCUMENTS that define or describe YOUR DOCUMENT and data retention POLICIES, PRACTICES, or PROCEDURES for YOUR DATABASE(S) and any other repository for storing DOCUMENTS RELATING TO HIRING (including iRecruitment and Taleo) during the RELEVANT TIME PERIOD.

50. All DOCUMENTS that define or describe YOUR DOCUMENT and data retention POLICIES, PRACTICES, or PROCEDURES for YOUR human resources, compensation, and/or PERSONNEL DATABASE(S) and any other repository for storing PERSONNEL DOCUMENTS and COMMUNICATIONS (including E-business suites, HRIS, Compensation workbench, and GSIAP) during the RELEVANT TIME PERIOD.

51. DOCUMENTS, including but not limited to ORGANIZATIONAL CHARTS or lists, sufficient to identify any and all PERSON(S) with knowledge of YOUR human resources and/or PERSONNEL DATABASE(S) and any other repository for storing PERSONNEL DOCUMENTS and COMMUNICATIONS, including but not limited to identifying any and all PERSONS(S) with knowledge RELATING TO: inputting, saving, storing, producing, deleting, and manipulating information contained in said DATABASE(S).

52. All performance evaluation forms (including electronic forms or fields for data entry) that YOU used for PERSONS in PT1 job group positions or in the Product Development, Information Technology, and Support lines of business during the RELEVANT TIME PERIOD.

53. DOCUMENTS, including but not limited to ORGANIZATIONAL CHARTS or lists, sufficient to identify any and all PERSON(S), including but not limited to officers, executives, and all levels of management, with the ability to make a decision to affect a PERSON'S COMPENSATION (i.e., by evaluating job performance, recommending increases or decreases in COMPENSATION; recommending PROMOTIONS or demotions) during the RELEVANT TIME PERIOD for positions within the Product Development, Information Technology, and Support lines of business.

54. All DOCUMENTS relating to PRACTICES, POLICIES, or PROCEDURES for assigning PERSONS in the Product Development, Information Technology, and Support lines of business during the RELEVANT TIME PERIOD to a "salary code" or "grade" and to a job title.

55. All DOCUMENTS RELATING TO PRACTICES, POLICIES, or PROCEDURES for determining starting COMPENSATION (i.e., upon hire) for COLLEGE RECRUITS during the RELEVANT TIME PERIOD.

56. All DOCUMENTS RELATING TO PRACTICES, POLICIES, or PROCEDURES for

determining starting COMPENSATION (i.e., upon hire) for EXPERIENCED RECRUITS hired into PT1 job group positions or into positions in the Product Development, Information Technology, and Support lines of business during the RELEVANT TIME PERIOD.

57. All DOCUMENTS RELATING TO PRACTICES, POLICIES, or PROCEDURES for determining starting COMPENSATION (i.e., upon hire for that particular position) for TRANSFER EMPLOYEES hired into PT1 job group positions or into positions in the Product Development, Information Technology, and Support lines of business during the RELEVANT TIME PERIOD (including COMPENSATION guidelines for international TRANSFER EMPLOYEES).

58. All DOCUMENTS RELATING TO PRACTICES, POLICIES, or PROCEDURES for determining job assignments (including but not limited to department/division, group, product team, and/or client assignments) for PERSONS in PT1 job group positions or in the Product Development, Information Technology, and Support lines of business during the RELEVANT TIME PERIOD.

59. All DOCUMENTS RELATING TO PRACTICES, POLICIES, or PROCEDURES RELATING TO the PROMOTION process for PERSONS in the Product Development, Information Technology, and Support lines of business during the RELEVANT TIME PERIOD.

60. All DOCUMENTS RELATING TO managers' requests for a PROMOTION of PERSONS in the Product Development, Information Technology, and Support lines of business during the RELEVANT TIME PERIOD, including but not limited to any completed "Promotion Template."

61. For each PERSON in the Product Development, Information Technology, and Support lines of business during the RELEVANT TIME PERIOD, DOCUMENTS evidencing the

PERSON's characteristics YOU considered when setting that PERSON's COMPENSATION, either upon hire or in connection with a raise or PROMOTION, including but not limited to performance evaluations or other DOCUMENTS from the PERSON's PERSONNEL FILE evidencing that PERSON's experience or qualifications.

62. All DOCUMENTS RELATING TO PRACTICES, POLICIES, or PROCEDURES for determining any changes in COMPENSATION for PERSONS in the Product Development, Information Technology, and Support lines of business during the RELEVANT TIME PERIOD.

63. All DOCUMENTS RELATING TO PRACTICES, POLICIES, or PROCEDURES for setting pay ranges for job titles and/or pay grades in the Product Development, Information Technology, and Support lines of business during the RELEVANT TIME PERIOD.

64. All DOCUMENTS RELATING TO PRACTICES, POLICIES, or PROCEDURES reflecting how PERSONS in the Product Development, Information Technology, and Support lines of business are evaluated, ranked, and/or analyzed, during the RELEVANT TIME PERIOD, including but not limited to: standards used; the process for evaluating, ranking, and/or analyzing; positions that evaluate, rank and/or analyze; the review and approval process.

65. All DOCUMENTS provided to YOUR employees, including but not limited to employee handbooks, describing PRACTICES, POLICIES, or PROCEDURES RELATING TO: HIRING; job assignments (including but not limited to initial job assignments, lateral movements, and transfers); COMPENSATION; PROMOTIONS; demotions; diversity and/or affirmative action, for PT1 job group positions and positions in the Product Development, Information Technology, and Support lines of business during the RELEVANT TIME PERIOD.

66. All DOCUMENTS RELATING TO PRACTICES, POLICIES, or PROCEDURES for raising a complaint of: discrimination (including but not limited to race or gender); retaliation;

unfair treatment; unfair COMPENSATION; and/or hostile work environment (including all PRACTICES, POLICIES, or PROCEDURES RELATING TO YOU investigating and addressing such complaints, whether internal or external) during the RELEVANT TIME PERIOD.

67. All DOCUMENTS RELATING TO complaints made (whether formal or informal, oral or written) against YOU (including against any and all PERSON(S) involved in HIRING for PT1 job group and/or Product Development job group positions or involved in determining COMPENSATION for employees in the Product Development, Information Technology, and Support lines of business) that allege, in whole or in part, discrimination (including but not limited to race or gender); retaliation; unfair treatment; unfair COMPENSATION; and/or hostile work environment during the RELEVANT TIME PERIOD.

68. All DOCUMENTS initiating legal proceedings against YOU concerning PERSONNEL issues by PERSONS in the PT1 job group or in the Product Development, Information Technology, or Support lines of business during the RELEVANT TIME PERIOD, including but not limited to: civil lawsuits; arbitrations; and/or administrative charges of: discrimination (including but not limited to race or gender); retaliation; unfair treatment; unfair COMPENSATION; and/or hostile work environment, including but not limited to charges filed with the Equal Employment Opportunity Commission, any state equal employment agencies, human rights agencies, or unemployment agencies.

69. All DOCUMENTS, including but not limited to employee surveys, summaries, reports, or presentations, addressing or referencing: discrimination (including but not limited to race or gender); retaliation; unfair treatment; unfair COMPENSATION; hostile work environment; morale; and/or improper management conduct during the RELEVANT TIME PERIOD.

70. All GOVERNMENT CONTRACTS to which YOU have been a party during the RELEVANT TIME PERIOD, including any addenda, modifications, affirmations, and/or novations.

71. YOUR internal pay equity analyses conducted pursuant to 41 C.F.R. § 60-2.17 for the RELEVANT TIME PERIOD, including the date of analysis and dataset(s) used for the analysis.

72. All DOCUMENTS RELATING TO actions taken during the RELEVANT TIME PERIOD in response to YOUR internal pay equity analyses conducted pursuant to 41 C.F.R. § 60-2.17.

73. DATABASE(S) exported in a non-proprietary format, such as an Excel-readable file (e.g., .XLS or .CSV files), with data dictionaries and/or internal documentation describing the fields/outputs containing the following, regardless of time period: PERSONNEL, PROMOTION, payroll, gender, and race data for employees in the PT1 job group or in the Product Development, Information Technology, and Support lines of business. Data should include all data contained in Oracle's GSIAP system, including data from (1) the "People" window and all tabs shown on that window (i.e., "Personal," "Employment," "Office Details," "Applicant," "Further Name," "Other," and "Benefits"); (2) the "Previous Employment Information" window; (3) the "Schools and Colleges Attended" window; (4) the "Assignment" screen and all tabs shown on that window (i.e., "Salary Information," "Supervisor," "Standard Conditions," and "Statutory Information"); (5) the "Salary Administration" window; (6) the "Performance" window; (7) the "Salary History" window; and (8) the "DateTrack History of Assignments" window.

74. DATABASE(S) exported in a non-proprietary format, such as an Excel-readable file (e.g., .XLS or .CSV files), with data dictionaries and/or or internal documentation describing the

fields/outputs containing the following: applicant, offer, gender, and race data for EXPERIENCED RECRUITS during the RELEVANT TIME PERIOD. Data should include all data contained in Oracle's iRecruitment system and Taleo system, including data from (1) the "Candidate Details" window and all tabs shown on that window (i.e., including "Candidate Profile," "Qualifications," "Resumes and Documents," "Jobs Considered for," "Applications," and "Offers"), (2) the "Vacancies" window and all tabs shown on that window (i.e., "Vacancy Details," "Applicants," and links, such as "Review Resume" and "Application Notes").

75. DATABASE(S) exported in a non-proprietary format, such as an Excel-readable file (e.g., .XLS or .CSV files), with data dictionaries and/or internal documentation describing the fields/outputs containing the following: applicant, offer, gender, and race data for TRANSFER EMPLOYEES into positions in the PT1 job group or Product Development line of business during the RELEVANT TIME PERIOD. Data should include all data contained in Oracle's iRecruitment system and Taleo system, including data from (1) the "Candidate Details" window and all tabs shown on that window (i.e., including "Candidate Profile," "Qualifications," "Resumes and Documents," "Jobs Considered for," "Applications," and "Offers"), (2) the "Vacancies" window and all tabs shown on that window (i.e., "Vacancy Details," "Applicants," and links, such as "Review Resume" and "Application Notes").

76. DATABASE(S) exported in a non-proprietary format, such as an Excel-readable file (e.g., .XLS or .CSV files), with data dictionaries and/or internal documentation describing the fields/outputs containing the following: applicant, offer, gender, and race data for COLLEGE RECRUITS during the RELEVANT TIME PERIOD. Data should include all data contained in Oracle's iRecruitment system, Taleo system, or other system, such as data from (1) the "Candidate Details" window and all tabs shown on that window (i.e., including "Candidate

Profile,” “Qualifications,” “Resumes and Documents,” “Jobs Considered for,” “Applications,” and “Offers”), (2) the “Vacancies” window and all tabs shown on that window (i.e., “Vacancy Details,” “Applicants,” and links, such as “Review Resume” and “Application Notes”).

77. All LABOR CONDITION APPLICATIONS for the RELEVANT TIME PERIOD, including any LABOR CONDITION APPLICATIONS YOU submitted during the RELEVANT TIME PERIOD or any additional LABOR CONDITION APPLICATIONS YOU used to employ any PERSON during the RELEVANT TIME PERIOD.

78. ADVERSE IMPACT ANALYSES, as required by 41 C.F.R. § 60-3.15A, performed by YOU or any other PERSONS acting or purporting to act on YOUR behalf or at YOUR direction for the RELEVANT TIME PERIOD.

79. Evaluations of each step or component of the selection (i.e., HIRING) process, as described in 41 C.F.R. § 60-3.4(C), for positions in the PT1 job group and/or Product Development line of business for the RELEVANT TIME PERIOD.

80. In-depth analyses of the total employment process, as required in 41 C.F.R. § 60-2.17(b), for positions in the PT1 job group or Product Development, Information Technology, and/or Support lines of business for the RELEVANT TIME PERIOD.

81. All DOCUMENTS RELATING TO training or other instruction YOU provided to any officers, executives, all levels of management, human resources and/or PERSONNEL department(s) or division(s), and/or any other employee or PERSON acting or purporting to act on YOUR behalf or at YOUR direction, involved in HIRING and/or determining COMPENSATION that relates to YOUR Affirmative Action Program (AAP) or laws or policies prohibiting discrimination on the basis of gender or race during the RELEVANT TIME PERIOD.

82. DOCUMENTS sufficient to show the eligibility requirements for any employment benefits offered to employees in the PT1 job group or Product Development, Information Technology, and/or Support lines of business during the RELEVANT TIME PERIOD, including but not limited to the following benefits: life insurance; retirement; vacation pay; sick pay; 401(k) profit sharing or retirement plans; stock options; DOCUMENTS governing any health, dental, vision, disability, or other welfare plan; DOCUMENTS governing any sick, vacation, and holiday plans; and summary plan descriptions.

83. Contact information for all current and former employees in the PT1 job group and Product Development, Information Technology, and Support lines of business during the RELEVANT TIME PERIOD, including: full name, home address, home phone number, mobile phone number, and home/personal email address.

84. All DOCUMENTS RELATING TO any statistical analyses that YOU rely upon to deny any of the allegations in the AMENDED COMPLAINT, including all results, assumptions, variables, and analyses upon which YOU rely, and the computer code and formulas underlying the analyses.

85. For any and all analyses YOU provide in response to Request No. 84, provide the entire DATABASE YOU relied upon for each analysis.

86. For each DATABASE provided in response to Request No. 84, produce all written and electronic source DOCUMENTS that YOU relied upon to create and refine the DATABASE, including but not limited to DOCUMENTS relied upon to establish each PERSON's name, gender, race, position, education, work experience, and any other factor YOU included in the DATABASE.

87. All DOCUMENTS RELATING TO validity studies or evaluations that YOU or someone

on YOUR behalf conducted RELATING TO any step or component of the HIRING process for employees in the PT1 job group and Product Development line of business during the RELEVANT TIME PERIOD.

88. All DOCUMENTS RELATING TO validity studies or evaluations that YOU or someone on YOUR behalf conducted RELATING TO any step or component of the COMPENSATION determination process for employees in the Product Development, Information Technology, and Support lines of business during the RELEVANT TIME PERIOD.

89. All DOCUMENTS YOU rely upon or reviewed in preparing YOUR ANSWER.

90. All DOCUMENTS that support YOUR "Preliminary Statement" (pages 1-9) set forth in YOUR ANSWER.

91. All DOCUMENTS that support YOUR responses in YOUR ANSWER denying each and every numbered paragraph to the AMENDED COMPLAINT.

92. All DOCUMENTS that YOU plan to introduce as exhibits at the trial in this matter.

//

DATED: February 21, 2017

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Regional Solicitor

IAN ELIASOPH
Counsel for Civil Rights

LAURA C. BREMER
Senior Trial Attorney

NORMAN E. GARCIA
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MARC A. PILOTIN
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/s/ Grace A. Kim
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CERTIFICATE OF SERVICE

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

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

Connell, Erin M.: econnell@orrick.com

Kaddah, Jacqueline D.: jkaddah@orrick.com

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

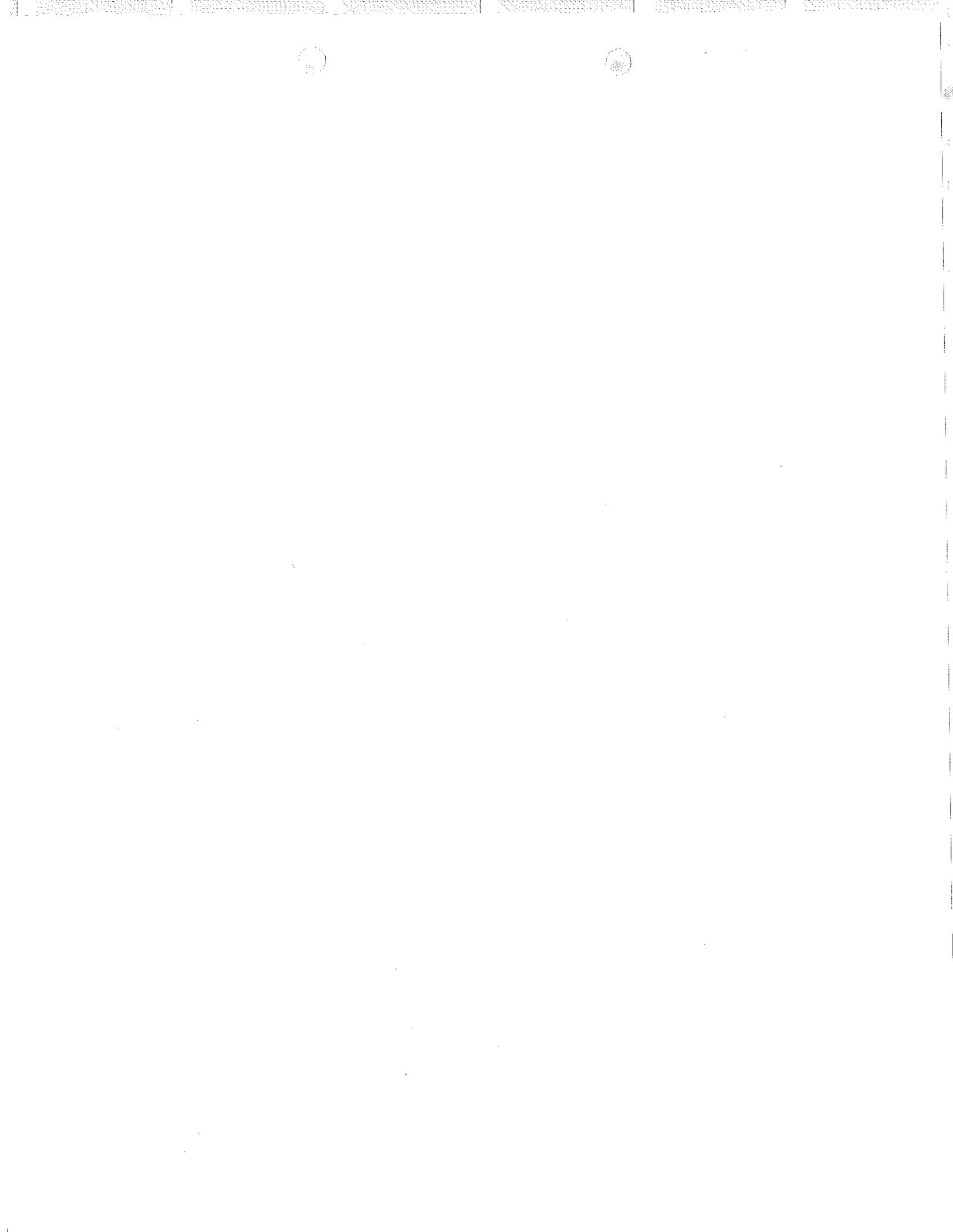
Siniscalco, Gary: grsiniscalco@orrick.com

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

Executed: February 21, 2017

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

Office of the Solicitor
U.S. Department of Labor



U.S. Department of Labor

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June 30, 2017

VIA ELECTRONIC MAIL ONLY

J.R. Riddell
ORRICK, HERRINGTON & SUTCLIFFE LLP
400 Capitol Mall #3000
Sacramento, CA 95814
jriddell@orrick.com

Re: OFCCP v. Oracle America, Inc., Case No. 2017-OFC-00006,
Follow-Up on OFCCP's Requests for Data

Dear J.R.:

This letter explains in further detail the data implicated by OFCCP's Requests for Production ("RFP") Nos. 73-76, served on February 21, 2017. OFCCP requests that Oracle promptly begin a rolling production of responsive data, substantially completing its production by July 31, 2017.

As you are aware, Oracle has an affirmative obligation to conduct a reasonable search for material responsive to OFCCP's RFPs. *See, e.g., A. Farber & Partners, Inc. v. Garber*, 234 F.R.D. 186, 189 (C.D. Cal. 2006). To assist and expedite Oracle's search for and production of data responsive to OFCCP's requests, I identify specific fields of which OFCCP is aware that may contain responsive data. To be clear, however, OFCCP's assistance does not absolve Oracle of its obligation to perform its own reasonable search for responsive data. To the extent there are data not identified below that are responsive, Oracle must produce them.

Moreover, in making the specific requests below, OFCCP does not waive its right to request additional data in the future. OFCCP identifies the data sources below based on incomplete information. Among other things, Oracle refused the agency's request for a demonstration of the systems as part of the Rule 30(b)(6) interviews, preventing the agency from obtaining a full understanding of the information contained in the systems. Indeed, it became apparent during the interviews that there were systems Oracle had not informed OFCCP existed (*e.g.*, Workflow). Also, during the interviews, Oracle instructed witnesses not to answer various questions OFCCP asked, taking an overly restrictive view of the subjects identified for the interviews. Thus, pursuant to RFP Nos. 73-76, OFCCP may request additional data.

I. RFP No. 73: Data Pertaining to Employees in the PT1 Job Group or in the Product Development, Information Technology, and Support Lines of Business

Through this request, OFCCP seeks demographic and non-payroll, work-related information on the alleged affected employees, including their basic demographic information (e.g., gender, race, ethnicity, nationality, date of birth, etc.); job history at Oracle (e.g., positions held, responsibilities, organizations in which they worked, managers for whom they worked); compensation history at Oracle and in the job immediately prior to Oracle; performance history at Oracle (e.g., performance evaluations and talent rankings); qualifications, including education (e.g., degrees received, higher education institutions attended) and prior work experience to Oracle; and any characteristic Oracle contends is relevant to setting its employees' compensation.

Pursuant to this request, OFCCP asks that Oracle produce compensation snapshots as of the beginning of calendar years 2013, 2014, 2015, 2016, and 2017 containing each employee in the PT1 job group or in the Product Development, Information Technology, and Support lines of business. Such snapshots must contain the data produced in ORACLE_HQCA_0000000004, along with the following:

- W-2 Box 5 (Medicare wages) data
- Compa Ratio for the employee's current salary

OFCCP also requests that Oracle produce the following background and historical data for each of individual appearing in the snapshots requested above. Such data must be related to each individual employee through use of an appropriate primary key.

<u>Field</u>	<u>Database</u>	<u>Comments</u>
Information on GSIAP "Personal" tab: birth date; town, region, and country of birth; status; nationality; registered disabled	GSIAP	See DOL000030818
Information on GSIAP "Employment" tab: ethnic origin, ethnicity disclosed, I-9 status, I-9 expiration	GSIAP	See DOL000030819
Information on GSIAP "Office Details" tab: office, location, mailstop, and email	GSIAP	See DOL000030820
Information on GSIAP "Applicant" tab: resume exists; last updated	GSIAP	See DOL000030821
Any resume information cut-and-pasted in		Mr. Juvara stated that, at

<u>Field</u>	<u>Database</u>	<u>Comments</u>
a field within GSIAP		the time of offer, employees enter their resume by cutting-and-pasting the information into a field that is eventually stored in GSIAP.
<p>Information in Previous Employment Information Window: employer; address; country; type and sub type; description; start date; end date</p> <p>Previous Job information: all information, including start date, end date, job, employee category</p> <p>Assignment – Previous Job Mappings information: all information, including assignment, job, start date, and end date</p>	GSIAP	See DOL000030824
<p>Information on Schools and Colleges Attended window: school or college, start date, end date, and full time</p>	GSIAP	See DOL000030825
<p>Salary History: change date; reason; currency code; previous salary; actual salary; grade; salary range minimum, midpoint, and maximum; comparatio; annual salary</p> <p>For each salary change in an employee’s salary identified in the data, the following information appearing in Workforce Compensation / Compensation Workbench: ranking and rating, notes, any supporting documentation, approval audit log (e.g., approver names, date and time approved, approval statuses, comments).</p>	<p>GSIAP</p> <p>GSIAP – Workforce Compensation / Compensation Workbench</p>	<p>See DOL000030827</p> <p>Kate Waggoner explained that, for any focal (annual) increase, managers can input a rank, rating, and notes to justify the increase. She also explained that approvals for each increase are logged.</p>
<p>Other Compensation Award information: data on all awards of any bonuses and additional equity</p>	GSIAP – Workforce Compensation /	Kate Waggoner explained that, for any bonus or equity award, managers

<u>Field</u>	<u>Database</u>	<u>Comments</u>
<p>For each award of any bonus or additional equity, the following information appearing in Workforce Compensation / Compensation Workbench: ranking and rating, notes, any supporting documentation, approval audit log (e.g., approver names, date and time approved, approval statuses, comments).</p>	<p>Compensation Workbench</p>	<p>can input a rank, rating, and notes to justify the award. She also explained that approvals for awards are logged.</p>
<p>Assignment (Job) history: dates job (from- and to-date); organization; job code (full string); grade; location; group; assignment number; assignment / employment category; reason; status; statutory information; supervisor; supervisor ID</p>	<p>GSIAP</p>	<p>See DOL000030828; ORACLE_HQCA_000000 0010</p>
<p>Performance Review history: type, date, rating, and any comments</p>	<p>GSIAP</p>	<p>See DOL000030827; ORACLE_HQCA_000000 0009</p>
<p>Talent Review history: all manager ratings, any final talent rating, all tasks assigned to employee, any comments regarding employee</p>	<p>Talent Review / HCM</p>	<p>Anje Dodson stated in her interview that managers who perform talent reviews assign their employees ratings on various dimensions, which ultimately result in a final talent rating. She also stated that, as part of the talent review, tasks are assigned to individual employees.</p>
<p>iRecruitment Application Information (for every application associated with an employee)</p> <p>Candidate Details: applicant number, email address, current employer, last degree completed, vacancy number, job title, application date, offer status, offer extended date</p>	<p>GSIAP – iRecruitment</p>	<p>See DOL000017396</p>

<u>Field</u>	<u>Database</u>	<u>Comments</u>
<p>Candidate Profile: email address, continuous hire date, citizenship, school, misc college, degree, GPA, status, tier, interview date, visit date, base salary, sign on, stock, relocation package, hiring manager, VP/SVP, EVP, group name, start date, offer sent, decision date, lost – reason, location preference, comments, position interested in</p> <p>Employment History: employer, start date, end date, job title, location, description of job duties</p> <p>Education: educational institution, location, start date, end date, degree, major subject, date received</p> <p>Any Resume or Document attached to the application or cut-and-pasted into a field</p> <p>Name and employee number of the assigned recruiter assigned to the application</p>		<p><i>See DOL000017396</i></p> <p><i>See DOL000017397</i></p> <p><i>See DOL000017397</i></p> <p><i>See DOL000017398</i></p> <p><i>See DOL000030823</i></p>
<p>iRecruitment Offer Information (for every application associated with an employee resulting in an offer)</p> <p>Basic Offer Details: business group, job, grade, organization, location, manager, manager email, manager employee number, recruiter, employment status, discretionary job title, justification for hire, candidate source, employee referral name, hire type, candidate’s current job title, candidate’s current salary</p> <p>Salary Information: salary basis, proposed salary, grade range, comparatio, annualized salary</p>		<p><i>See DOL000031789</i></p> <p><i>See DOL000031789</i></p>

<u>Field</u>	<u>Database</u>	<u>Comments</u>
Additional Offer Details: stock, car allowance, relocation amount, sign on bonus, and any related justifications		See DOL000031790
Any Attachments (i.e., Internal Documents or External Documents)		See DOL000031790
Offer History: offer status, user, date/time		See DOL000031790
Approval History: approver, approver type, category, approval status, date, comment		See DOL000031790
Approval History 2: name, action, date, comments		See DOL000031791

II. RFP No. 74 and 75: Data Pertaining to Experienced Recruits and Transfer Employees

Through this request, OFCCP seeks information on affected applicants' demographics, qualifications, and application process, including their basic demographic information (*e.g.*, gender, race, ethnicity, nationality, date of birth, etc.); their application process (*e.g.*, job to which they applied, the individuals involved in their application, the disposition of their application); if successful, their compensation offer and any information affecting that offer (*e.g.*, components of compensation package, the rationale, and the candidate's prior salary); qualifications, including education (*e.g.*, degrees received, higher education institutions attended) and prior work experience to Oracle; and any characteristic Oracle contends is relevant to hiring.

Pursuant to this request, OFCCP asks that Oracle produce from January 2013 through the present information on non-college and transfer applicants to positions within the PT1 job group and positions within the Product Development line of business.

Specifically, OFCCP requests the Oracle produce all information on each requisition from this period, including hiring manager, requisition number, the date the requisition was created, job requirements and/or description, and any other organizational information available.

For each of these requisitions, OFCCP requests the following information for each of the applicants applying to the requisition:¹

¹ We will supplement this list once we completed our interview with Carla Foster regarding the Taleo system.

<u>Field</u>	<u>Database</u>	<u>Comments</u>
<p>iRecruitment Application Information</p> <p>Candidate Details: candidate name, applicant number, email address, current employer, last degree completed, vacancy number, job title, application date, offer status, offer extended date</p> <p>Candidate Profile: continuous hire date, citizenship, school, misc college, degree, GPA, status, tier, interview date, visit date, base salary, sign on, stock, relocation package, hiring manager, VP/SVP, EVP, group name, start date, offer sent, decision date, lost – reason, location preference, comments, position interested in</p> <p>Employment History: employer, start date, end date, job title, location, description of job duties</p> <p>Education: educational institution, location, start date, end date, degree, major subject, date received</p> <p>Any Resume or Document attached to the application or cut-and-pasted into a field</p> <p>Name and employee number of the assigned recruiter assigned to the application</p> <p>Race, ethnicity, and gender for each applicant</p>	<p>GSIAP – iRecruitment</p>	<p><i>See DOL000017396</i></p> <p><i>See DOL000017396</i></p> <p><i>See DOL000017397</i></p> <p><i>See DOL000017397</i></p> <p><i>See DOL000017398</i></p> <p><i>See DOL000030823</i></p> <p>Ms. Foster stated that each candidate must enter their “EEO information” as part of their application.</p>
<p>iRecruitment Offer Information (for each successful applicant)</p> <p>Basic Offer Details: business group, job,</p>		<p><i>See DOL000031789</i></p>

<u>Field</u>	<u>Database</u>	<u>Comments</u>
<p>grade, organization, location, manager, manager email, manager employee number, recruiter, employment status, discretionary job title, justification for hire, candidate source, employee referral name, hire type, candidate's current job title, candidate's current salary</p> <p>Salary Information: salary basis, proposed salary, grade range, comparatio, annualized salary</p> <p>Additional Offer Details: stock, car allowance, relocation amount, sign on bonus, and any related justifications</p> <p>Any Attachments (i.e., Internal Documents or External Documents)</p> <p>Offer History: offer status, user, date/time</p> <p>Approval History: approver, approver type, category, approval status, date, comment</p> <p>Approval History 2: name, action, date, comments</p>		<p><i>See DOL000031789</i></p> <p><i>See DOL000031790</i></p> <p><i>See DOL000031790</i></p> <p><i>See DOL000031790</i></p> <p><i>See DOL000031790</i></p> <p><i>See DOL000031791</i></p>
<p>ORS Information: recruiter name; date candidate entered; candidate source (e.g., referral); notes re candidate; Resume (often pasted); current company; education, degree, skill; prior experience (number of years from drop-down menu)</p>	<p>ORS</p>	

III. RFP No. 76: Data Pertaining to College Recruits

Through this request, OFCCP seeks information on affected college applicants' demographics, qualifications, and application process, including their basic demographic information (e.g., gender, race, ethnicity, nationality, date of birth, etc.); their application process (e.g., job to which they applied, the individuals involved in their application); if successful, their compensation offer and any information affecting that offer (e.g., components of compensation package, the rationale, and the candidate's prior salary); qualifications, including education (e.g.,

degrees received, higher education institutions attended) and prior work experience to Oracle; and any characteristic Oracle contends is relevant to hiring.

Pursuant to this request, OFCCP asks that Oracle produce from January 2013 through the present information on college applicants to positions within the PT1 job group and positions within the Product Development line of business. Specifically, OFCCP requests the information below:

<u>Field</u>	<u>Database</u>	<u>Comments</u>
All Resumes submitted to recruiting mailbox		Ms. Cohn stated that college students submit resumes to recruiting mailboxes available on the Oracle website.
RESUMate Data: name, address, email, statuses and status history, source code, notes in Explanation field, notes in Notes field Any Resume or Document attached to the application or cut-and-pasted into a field	RESUMate	See ORACLE_HQCA_0000020173-74
Workflow / iRecruitment Offer Information (linked to successful applicant through use of a primary key) Basic Offer Details: business group, job, grade, organization, location, manager, manager email, manager employee number, recruiter, employment status, discretionary job title, justification for hire, candidate source, employee referral name, hire type, candidate's current job title, candidate's current salary Salary Information: salary basis, proposed salary, grade range, comparatio, annualized salary Additional Offer Details: stock, car allowance, relocation amount, sign on bonus, and any related justifications		See DOL000031789. Ms. Cohn stated that Oracle job code and job title successful candidates were hired into were entered into Workflow. See DOL000031789 See DOL000031790

<u>Field</u>	<u>Database</u>	<u>Comments</u>
Any Attachments (i.e., Internal Documents or External Documents)		<i>See DOL000031790</i>
Offer History: offer status, user, date/time		<i>See DOL000031790</i>
Approval History: approver, approver type, category, approval status, date, comment		<i>See DOL000031790</i>
Approval History 2: name, action, date, comments		<i>See DOL000031791</i>

* * *

As always, I would be happy to discuss our positions and the items raised above. Please let us know when next week you are available to discuss.

Very truly yours,

JANET M. HEROLD
Regional Solicitor

By:



MARC A. PILOTIN
Trial Attorney





October 11, 2017

Via E-Mail and Hand Delivery

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Re: *OFCCP v. Oracle America, Inc.*, OALJ Case No. 2017-OFC-00006

Dear Counsel:

As we have previously discussed, Oracle is producing today both the “database” that the parties have referenced in prior correspondence, as well as additional discovery responsive to the Court’s September 11, 2017 Order Granting in Part and Denying in Part Plaintiff’s Motion to Compel, including relevant employee personal contact information. The “database” is being hand delivered to you today on a hard drive in light of its volume. Oracle’s remaining document production is being produced through the usual FTP process. The files containing employee contact information are being produced both on the hard drive, as well as through a separate FTP electronic production. You will receive two separate emails today containing the FTP productions.

I. Data Export Files

In today’s “database” production, Oracle is producing over 75 data export files containing more than 1,000 data fields, and tens of thousands of accompanying documents. A detailed appendix is attached to this letter, and describes the sources from which these exports were drawn and the population parameters governing these extracts. All of data therein is confidential and produced subject to the Protective Order in this matter. We have endeavored to procure and produce data such that individuals can be identified across various data files through the use of name, employee ID, person ID, and/or party ID.

As I previously advised, and as we discussed this morning, during our QC process we have learned that a narrow range of exports related to the specific issues of pre-2015 offers to college applicants and data regarding employee H1B visa status will need to follow as supplements to this production. We will make our supplemental production related to the pre-2015 offers to college applicants no later than October 20, 2017. We are currently working to confirm a production date for the H1B visa information, and will confirm that date later today.



Laura C. Bremer; Marc A. Pilton; Ian Eliasoph
October 11, 2017
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II. Contact Information

Also in today's production, Oracle is producing data exports containing personal contact information consistent with the Court's September 11, 2017 order. The "Group I" files contain contact information for employees or former employees who fall within the compensation class. The "Group II" files contain contact information for employees or former employees who fall within the applicant class. Responsive contact information also is contained in the "database" files. This information is confidential and produced subject to both the Protective Order in this matter, as well as subject to the additional protections placed on it in the Court's September 11 order.

While we are providing this contact information as ordered, we believe the parties' agreement to stay discovery while the parties mediate includes OFCCP communicating with these individuals. If you believe differently, please let us know right away so that we can arrange a meet and confer call.

Moreover, even absent a discovery stay, with regards to any individuals who are or were employed in a managerial capacity (as indicated by a managerial job level, beginning with "M"), we expect you will abide by the limits on contact, and content of any contact, set forth in the applicable ethical rules and OFCCP's own guidance regarding notifications and rights to representation (*see* FCCM § 2M00).

We anticipate that you will have clarifying questions about this data once you begin your review, and would be happy to arrange meet and confer calls as appropriate to provide clarification. In the interest of ensuring a productive mediation, we ask that the parties use best efforts to complete any follow-up discussion or clarification regarding any of Oracle's data exports at least 30 days prior to the first mediation session.

Very truly yours,

A handwritten signature in cursive script that reads "Erin M. Connell".

Erin M. Connell

cc: Gary R. Siniscalco
Warrington Parker
Kathryn G. Mantoan
Jinnifer Pitcher



Laura C. Bremer; Marc A. Pilton; Ian Eliasoph
October 11, 2017
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APPENDIX

I. Data Pertaining to HQCA Employees in the PRODEV, INFTECH, and SUPP Job Functions

Oracle is producing the following data exports for individuals who were employed at HQCA in the PRODEV, INFTECH, and/or SUPP job function at any point from January 1, 2013 through January 17, 2017, inclusive.

From GSI¹

- Emp_Personal_Experience_Qualification_Assign_Details.xlsx
- Merged Assignment History, Medicare and Sal Admin.xlsx
- Appraisal_Audit_All_Data.xlsx
- gsi_cwb_details.xlsx
- gsi_cwb_audit.xlsx
- gsi_focal_only_audit.xlsx
- gsi_comp_history.xlsx
- AllEarnings.xlsx
- AllEarnings2.xlsx
- us_audit_adhoc_comp_total.xlsx
- us_audit_adhoc_comp_wf.xlsx
- us_audit_adhoc_comp_wf_attach.xlsx
- Folders containing additional documentation relating to these individuals:
 - adhoc_comp_attach_ATG_GSIAP
 - adhoc_comp_attach_ATG_IMGAP

From Fusion

- Appraisal_Audit_All_Data.xlsx
- Talent_Review_Audit.xlsx
- Talent_Review_Audit_Notes.xlsx
- hcm_wfc_details.xlsx
- hcm_wfc_audit.xlsx

¹ We are also providing "CC Data dictionary.xlsx," a list of cost center/line of business (LOB) codes.



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- Z_PromApproverMtxRpt.xlsx
- Z_PromApproverAttachmentKey.xlsx
- A folder entitled containing additional documentation relating to these individuals:
 - Comp_Attachments

From iRecruitment

- HQCA_IREC_DATA.xlsx
- Folders containing additional documentation relating to these individuals:
 - HQCA_OFR_WF_ATTCH_GSIAP
 - HQCA_OFR_WF_ATTCH_IMGAP
 - Resumes
 - other

From Taleo

- Application Data.xlsx
- Application - Candidate-Skills.xlsx
- Application - CSW History.xlsx
- Application - Education.xlsx
- Application - Experience.xlsx
- Application - History.xlsx
- Application - Source.xlsx
- Candidate - Demographics.xlsx
- Candidate - Languages.xlsx
- Candidate - Referrals.xlsx
- Candidate - Preferences - Job Field.xlsx
- Candidate - Preferences - Location.xlsx
- Candidate - Preferences - Organization.xlsx
- Requisition - Collaborators Data.xlsx
- Requisition - Description and Qualification Data.xlsx
- Requisition - Other Locations.xlsx
- Requisition Data.xlsx
- File Attachments - By Requisition.xlsx
- File Attachments - By Candidate.xlsx
- Folders containing additional documentation relating to these individuals:



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- FILES1

II. Data for HQCA PT1 Applicants and Hires

Oracle is producing the following data exports related to (1) vacancies and requisitions for which an individual was hired between January 1, 2013 and January 17, 2017, inclusive, and was whose hire location was HQCA and (2) college recruits during that same time period (subject to the pre-2015 offers to college applicants issue identified above).

From iRecruitment

- PT1_HQCA_IREC_MAIN.xlsx
- Folders containing additional documentation relating to these requisitions:
 - PT1_HQCA_IREC_WF_ATTACHMENTS
 - Resumes
 - Otherdocs

From Taleo

- Application Data.xlsx
- Application - Candidate-Skills.xlsx
- Application - CSW History.xlsx
- Application - Education.xlsx
- Application - Experience.xlsx
- Application - History.xlsx
- Application - Source.xlsx
- Candidate - Demographics.xlsx
- Candidate - GovtClearance.xlsx
- Candidate - Languages.xlsx
- Candidate - Referrals.xlsx
- Candidate - Preferences - Job Field.xlsx
- Candidate - Preferences - Location.xlsx
- Candidate - Preferences - Organization.xlsx
- Requisition - Collaborators Data.xlsx
- Requisition - Description and Qualification Data.xlsx
- Requisition - Other Locations.xlsx
- Requisition Data.xlsx



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- File Attachments – By Candidate.xlsx
- File Attachments – By Requisition.xlsx
- Folders containing additional documentation relating to these requisitions:
 - Taleo Data - Files - Part1
 - Taleo Data - Files – Part2
 - Taleo Data - Files – Part3
 - Taleo Data - Files – Part4
 - Taleo Data - Files – Part5
 - Taleo Data - Files – Part6
 - Taleo Data - Files – Part7
 - Taleo Data - Files – Part8
 - Taleo Data - Files – Part9
 - Taleo Data - Files - Part10

From RESUMate

- FY13 Last Name A-L Memos.pdf
- FY13 Last Name A-L Text Fields.xlsx
- FY13 Last Name M-Z Memos.pdf
- FY13 Last Name M-Z Text Fields.xlsx
- FY14 Last Name A-L Memos.pdf
- FY14 Last Name A-L Text Fields.xlsx
- FY14 Last Name M-Z Memos.pdf
- FY14 Last Name M-Z Text Fields.xlsx
- FY15 Last Name A-I Memos.pdf
- FY15 Last Name A-I Text Fields.xlsx
- FY15 Last Name J-R Memos.pdf
- FY15 Last Name J-R Text Fields.xlsx
- FY15 Last Name S-Z Memos.pdf
- FY15 Last Name S-Z Text Fields.xlsx
- FY16 Last Name A-I Memos.pdf
- FY16 Last Name A-I Text Fields.xlsx
- FY16 Last Name J-R Memos.pdf
- FY16 Last Name J-R Text Fields.xlsx
- FY16 Last Name S-Z Memos.pdf
- FY16 Last Name S-Z Text Fields.xlsx



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- FY17 Last Name A-I Memos.pdf
- FY17 Last Name A-I Text Fields.xlsx
- FY17 Last Name J-R Memos.pdf
- FY17 Last Name J-R Text Fields.xlsx
- FY17 Last Name S-Z Memos.pdf
- FY17 Last Name S-Z Text Fields.xlsx
- FY18 Last Name A-L Memos.pdf
- FY18 Last Name M-Z Memos.pdf
- FY18 Text Fields.xlsx



2. “RELEVANT TIME PERIOD” means January 1, 2013, to the present unless otherwise stated.

3. “ANALYSES” means any AND all draft AND final narratives, summaries, chronologies, determination memorandums, statistical summaries, charts, matrices, spreadsheets, audits, evaluations, studies, methodologies, models, actual computations, AND regression AND other statistical analysis.

4. “AND” AND “OR” shall be construed conjunctively OR disjunctively as necessary to make the request inclusive rather than exclusive.

5. “APPLICANT” means any person who YOU received expressions of interest, solicited, recruited, communicated with, screened, interviewed, evaluated, determined starting salary AND other COMPENSATION for, OR extended offers to, persons who expressed interest in a job at Oracle.

6. “ASSIGNED” means responsible, designated, appointed, worked on, performed work.

7. “CAP-GAP EXTENSION” means a temporary extension of employment authorization under provisions allowing relief for holders of F-1 US VISAs who are seeking H1-B US VISAs.

8. “COLLEGE RECRUIT” means any person who expresses interest OR applies to YOU through YOUR college recruiting program (including undergraduate students, graduate students, AND recent graduates) for positions in the Professional Technical I, Individual Contributor Job Group, including product development positions.

9. “COMMUNICATIONS” means all transactions OR transfers of information of any kind, whether orally, in writing, OR in any other manner, at any time

OR place, under any circumstances whatsoever.

10. "COMPA-RATIO" means the ratio of the employee's base salary to the midpoint of their job's salary range multiplied by 100.

11. "COMPENSATION" means any payments made to, OR on behalf of, YOUR employee as remuneration for employment, including but not limited to salary, wages, money for relocation, overtime pay, shift differentials, commissions, bonuses, vacation AND holiday pay, retirement AND other benefits, stock options AND awards, AND profit sharing.

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

13. "HIRING" OR "HIRE" means to establish an employer to employee relationship, to employ someone.

14. "LIST" means a compilation of information, a record of information AND includes Excel spreadsheets OR other types of documents OR files compiling

information.

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

16. "OPT EXTENSION" means Optional Practical Training employment authorization extension for students with F-1 US VISAs.

17. "PAY DECISION" means any choice Oracle made about a person's COMPENSATION, including whether to give OR not to give a particular type of COMPENSATION (e.g., starting pay, bonus, stock options), the amount of COMPENSATION to give, OR to change OR not to change the amount of COMPENSATION of a person.

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

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

20. "SELECTION PROCESS" mean YOU responding to expressions of interest, soliciting, recruiting, communicating with, screening, interviewing, evaluating, determining starting salary AND other COMPENSATION for, OR extending job offers to, persons who

express interest in a job at Oracle.

21. "STEM OPT EXTENSION" means Optional Practical Training employment authorization extension for students with F-1 US VISAs who earned degrees in science, technology, engineering OR mathematics.

22. "SUPPORTING" OR "SUPPORTS" means relied upon, used, sustained, utilized.

23. "USCIS" means the United States Custom AND Immigration Services.

24. "US VISA" means an endorsement issued by an authorized representative of the United States AND marked in a passport, permitting the passport holder to enter, travel through, OR reside in the United States.

INSTRUCTIONS

1. Unless otherwise stated, these requests RELATE TO Oracle's headquarters located at Redwood Shores, California.

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

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

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

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

4. These requests are intended to cover all DOCUMENTS in existence OR in effect at any time during the RELEVANT TIME PERIOD. If any responsive DOCUMENT has changed over the RELEVANT TIME PERIOD, produce all responsive DOCUMENTS, regardless of whether they reflect YOUR POLICIES, PRACTICES OR PROCEDURES that are no longer in effect.

5. With respect to the application of privileges: If YOU decline to produce any DOCUMENT OR to otherwise provide information on the basis of a claim of privilege, so state in response to the DOCUMENT production request. Any part of a DOCUMENT for which YOU do not claim a privilege must be produced. Furnish a complete log of any DOCUMENTS OR portions of DOCUMENTS withheld on the basis of privilege, describing each such DOCUMENT OR portion thereof in a manner that will enable OFCCP to assess the applicability of the privilege being asserted. This includes,

without limitation, setting forth for each such DOCUMENT the dates the DOCUMENT was prepared AND transmitted, to whom AND from whom the DOCUMENT was transmitted, including copies thereof, the length of the DOCUMENT, the privilege(s) claimed, AND the factual basis for the claim of each privilege.

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

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

8. All DOCUMENT productions made in response to these requests must comply with OFCCP's technical specifications previously provided.

REQUESTS FOR PRODUCTION OF DOCUMENTS

131. For all of the people who were YOUR employees in the PT1 Job Group OR COLLEGE RECRUITS for the PT1 Job Group during the RELEVANT TIME PERIOD, produce all DOCUMENTS IDENTIFYING a person's eligibility to work in the United States, including, but not limited to, a person being on a US VISA OR any extension thereto (e.g., E-3, F-1, F-1 with OPT EXTENSION, F-1 with STEM OPT EXTENSION, H-1B, H-4, J-1, L-1, L-1A, L-1B, L-2,

O-1, TN, CAP-GAP EXTENSIONS); United States Passport; United States identification card; certified birth certificate issued by the city, county OR state of birth; Consular Report of Birth (of U.S. citizen) Abroad OR Certification of Birth; Naturalization Certificate; Certificate of Citizenship; foreign passport with an I-551 stamp; foreign passport with Form I-94 containing an endorsement of nonimmigrant status; alien registration receipt card; alien permanent resident card (aka green card); employment authorization card (e.g., filled out I-765 form for YOUR employees); employment authorization document; Social Security card; USCIS' Employment Eligibility Verification Form (i.e., USCIS's I-9 Form) filled out for YOUR employees; USCIS' Petition for a Non-Immigrant Worker Form (i.e., USCIS's I-129 Form) filled out for YOUR employees; YOUR "Employment Eligibility Questionnaire" in any of its forms (e.g., Bates stamp number ("BSN") ORACLE_HQCA_1279 & 2003); YOUR "VISA Status Questionnaire" in any of its forms (e.g., ORACLE_HQCA_916).

132. For all of the people who were YOUR employees in the PT1 Job Group OR COLLEGE RECRUITS for the PT1 Job Group during the RELEVANT TIME PERIOD who were not citizens of the United States at any time during the RELEVANT TIME PERIOD, produce, to the extent not otherwise produced in response to the previous request, all DOCUMENTS of a person having a US VISA OR any extension thereto (e.g., E-3, F-1, F-1 with OPT EXTENSION, F-1 with STEM OPT EXTENSION, H-1B, H-4, J-1, L-1, L-1A, L-1B, L-2, O-1, TN, CAP-GAP EXTENSIONS); employment authorization card (e.g., filled out I-765 form for YOUR employees); employment authorization document; Social Security card; USCIS' Employment Eligibility Verification Form (i.e., USCIS's I-9 Form) filled out for YOUR employees; USCIS' Petition for a Non-Immigrant Worker Form (i.e., USCIS's I-129 Form) filled out for YOUR employee; YOUR "Employment Eligibility Questionnaire" in any of its forms (e.g., Bates stamp

number (“BSN”) ORACLE_HQCA_1279 & 2003); YOUR “VISA Status Questionnaire” in any of its forms (e.g., ORACLE_HQCA_916); Labor Condition Application; Immigration & Naturalization Service Work Authorization; DOCUMENTS RELATING TO YOU sponsoring people for US VISAS.

133. For all of the people who were YOUR employees in the Information Technology, Product Development AND Support Job Functions during the RELEVANT TIME PERIOD, produce all DOCUMENTS IDENTIFYING a person’s eligibility to work in the United States, including, but not limited to, a person being on a US VISA OR any extension thereto (e.g., E-3, F-1, F-1 with OPT EXTENSION, F-1 with STEM OPT EXTENSION, H-1B, H-4, J-1, L-1, L-1A, L-1B, L-2, O-1, TN, CAP-GAP EXTENSIONS); United States Passport; United States identification card; certified birth certificate issued by the city, county OR state of birth; Consular Report of Birth (of U.S. citizen) Abroad OR Certification of Birth; Naturalization Certificate; Certificate of Citizenship; foreign passport with an I-551 stamp; foreign passport with Form I-94 containing an endorsement of nonimmigrant status; alien registration receipt card; alien permanent resident card (aka green card); employment authorization card (e.g., filled out I-765 form for YOUR employees); employment authorization document; Social Security card; USCIS’ Employment Eligibility Verification Form (i.e., USCIS’s I-9 Form) filled out for YOUR employees; USCIS’ Petition for a Non-Immigrant Worker Form (i.e., USCIS’s I-129 Form) filled out for YOUR employees; YOUR “Employment Eligibility Questionnaire” in any of its forms (e.g., Bates stamp number (“BSN”) ORACLE_HQCA_1279 & 2003); YOUR “VISA Status Questionnaire” in any of its forms (e.g., ORACLE_HQCA_916).

134. For all of the people who were YOUR employees in the Information Technology, Product Development AND Support Job Functions during the RELEVANT TIME PERIOD who

were not citizens of the United States at any time during the RELEVANT TIME PERIOD, produce, to the extent not otherwise produced in response to the previous request, all DOCUMENTS of a person having a US VISA OR any extension thereto (e.g., E-3, F-1, F-1 with OPT EXTENSION, F-1 with STEM OPT EXTENSION, H-1B, H-4, J-1, L-1, L-1A, L-1B, L-2, O-1, TN, CAP-GAP EXTENSIONS); employment authorization card (e.g., filled out I-765 form for YOUR employees); employment authorization document; Social Security card; USCIS' Employment Eligibility Verification Form (i.e., USCIS's I-9 Form) filled out for YOUR employees; USCIS' Petition for a Non-Immigrant Worker Form (i.e., USCIS's I-129 Form) filled out for YOUR employee; YOUR "Employment Eligibility Questionnaire" in any of its forms (e.g., Bates stamp number ("BSN") ORACLE_HQCA_1279 & 2003); YOUR "VISA Status Questionnaire" in any of its forms (e.g., ORACLE_HQCA_916); Labor Condition Application; Immigration & Naturalization Service Work Authorization; DOCUMENTS RELATING TO YOU sponsoring people for US VISAS.

135. For all of the people who were YOUR employees in the Information Technology, Product Development AND Support Job Functions from January 1, 1985, through AND including December 31, 2012, produce all DOCUMENTS IDENTIFYING a person's eligibility to work in the United States, including, but not limited to, a person being on a US VISA OR any extension thereto (e.g., E-3, F-1, F-1 with OPT EXTENSION, F-1 with STEM OPT EXTENSION, H-1B, H-4, J-1, L-1, L-1A, L-1B, L-2, O-1, TN, CAP-GAP EXTENSIONS); United States Passport; United States identification card; certified birth certificate issued by the city, county OR state of birth; Consular Report of Birth (of U.S. citizen) Abroad OR Certification of Birth; Naturalization Certificate; Certificate of Citizenship; foreign passport with an I-551 stamp; foreign passport with Form I-94 containing an endorsement of nonimmigrant

status; alien registration receipt card; alien permanent resident card (aka green card); employment authorization card (e.g., filled out I-765 form for YOUR employees); employment authorization document; Social Security card; USCIS' Employment Eligibility Verification Form (i.e., USCIS's I-9 Form) filled out for YOUR employees; USCIS' Petition for a Non-Immigrant Worker Form (i.e., USCIS's I-129 Form) filled out for YOUR employees; YOUR "Employment Eligibility Questionnaire" in any of its forms (e.g., Bates stamp number ("BSN") ORACLE_HQCA_1279 & 2003); YOUR "VISA Status Questionnaire" in any of its forms (e.g., ORACLE_HQCA_916).

136. For all of the people who were YOUR employees in the Information Technology, Product Development AND Support Job Functions from January 1, 1985, through AND including December 31, 2012, who were not citizens of the United States at any time during the RELEVANT TIME PERIOD, produce, to the extent not otherwise produced in response to the previous request, all DOCUMENTS of a person having a US VISA OR any extension thereto (e.g., E-3, F-1, F-1 with OPT EXTENSION, F-1 with STEM OPT EXTENSION, H-1B, H-4, J-1, L-1, L-1A, L-1B, L-2, O-1, TN, CAP-GAP EXTENSIONS); employment authorization card (e.g., filled out I-765 form for YOUR employees); employment authorization document; Social Security card; USCIS' Employment Eligibility Verification Form (i.e., USCIS's I-9 Form) filled out for YOUR employees; USCIS' Petition for a Non-Immigrant Worker Form (i.e., USCIS's I-129 Form) filled out for YOUR employee; YOUR "Employment Eligibility Questionnaire" in any of its forms (e.g., Bates stamp number ("BSN") ORACLE_HQCA_1279 & 2003); YOUR "VISA Status Questionnaire" in any of its forms (e.g., ORACLE_HQCA_916); DOCUMENTS RELATING TO YOU sponsoring people for US VISAS.

137. For all of the people who were YOUR employees in the Information Technology,

Product Development AND Support Job Functions who YOU identified in response to the prior six requests of this set of document production requests as having any US VISAs, produce, for each type of US VISA previously identified, DOCUMENTS IDENTIFYING the type of US VISA (e.g., E-3, F-1, F-1 with OPT EXTENSION, F-1 with STEM OPT EXTENSION, H-1B, H-4, J-1, L-1, L-1A, L-1B, L-2, O-1, TN, CAP-GAP EXTENSIONS), the start AND end dates of this US VISA AND the country of origin for the employees holding the US VISA

138. For all of the people who were YOUR employees in the PT1 Job Group OR COLLEGE RECRUITS for the PT1 Job Group during the RELEVANT TIME PERIOD, produce DOCUMENTS sufficient to IDENTIFY their: country of birth, country of origin, race AND gender.

139. Produce all of YOUR POLICIES, PRACTICES OR PROCEDURES RELATING TO employees OR COLLEGE RECRUITS who were not citizens of the United States at any time during the RELEVANT TIME PERIOD being eligible to lawfully work in the United States, including, but not limited to YOUR POLICIES, PRACTICES OR PROCEDURES, RELATING TO US VISAs, passports, permanent resident cards (green cards), OPT EXTENSIONS, STEM OPT EXTENSIONS, CAP-GAP EXTENSIONS, employment authorization card (e.g., filled out I-765 form for YOUR employees); employment authorization document, USCIS' Employment Eligibility Verification Form (i.e., USCIS's I-9 Form) filled out for YOUR employees, USCIS' Petition for a Non-Immigrant Worker Form (i.e., USCIS's I-129 Form) filled out for YOUR employees, YOUR "Employment Eligibility Questionnaire" in any of its forms (e.g., Bates stamp number ("BSN") ORACLE_HQCA_1279 & 2003), YOUR "VISA Status Questionnaire" in any of its forms (e.g., ORACLE_HQCA_916), YOU sponsoring workers for US VISAS, Labor Condition Applications, POLICIES, PRACTICES OR PROCEDURES regarding the

eligibility of non-United States citizens to work OR not work in the United States.

140. For all of the people who were YOUR employees in the PT1 Job Group OR COLLEGE RECRUITS for the PT1 Job Group during the RELEVANT TIME PERIOD OR YOUR employees in the Product Development, Support, OR Information Technology Job Functions since 1985, produce DOCUMENTS sufficient to IDENTIFY the following information, for each college degree that they obtained at any time: the full name of the college they obtained the degree from, the degree obtained, the year they obtained this degree, the major they acquired this degree in. This request should include employees listed in the HQCA_iRec_MAIN.xlsx file, AND include the data fields in the APL_EMPLOYMENT_HISTORY, APL_QUALIFICATIONS, AND APPLICANT_PROFILES tabs produced in the PT1_HQCA_iRec_MAIN.xlsx file.

141. Produce all COMMUNICATIONS (including, but not limited to, memos, letters, emails, spreadsheets, photographs, transcripts, reports, print outs, text messages, computer screen shots, computer files, to include any attachments to any of these examples) to AND from Larry Lynn, Vice President, College Recruiting, RELATED TO the SELECTION PROCESS for COLLEGE RECRUITS during the RELEVANT TIME PERIOD.

142. Produce all COMMUNICATIONS (including, but not limited to, memos, letters, emails, spreadsheets, photographs, transcripts, reports, print outs, text messages, computer screen shots, computer files, to include any attachments to any of these examples) to AND from Thomas Kurian RELATED TO the SELECTION PROCESS FOR COLLEGE RECRUITS OR PAY DECISIONS for the Product Development Job Function during the RELEVANT TIME PERIOD.

143. Produce each LIST RELATED TO COLLEGE RECRUITS for positions in the PT1 Job

Group during the RELEVANT TIME PERIOD, including “TK Master List,” LIST of offers, LIST of people who declined OR reneged on offers, LIST tracking the eligibility of people to work in the United States, LIST of their US VISA status, LIST of people by educational degrees, LIST of people who applied for jobs, LIST of people who were screened AND rejected, LIST of people interviewed, LIST of people interviewed AND rejected, LIST of people submitted to Larry Lynn for review, LIST of people rejected by Larry Lynn, LIST of people accepted by Larry Lynn, LIST of people by country of origin, LIST of people by country of birth, LIST of people by race, LIST of people by gender.

144. Produce all e-mails AND attachments COLLEGE RECRUITS sent to Oracle’s college recruiting inbox (college_US e-mail account) during the RELEVANT TIME PERIOD.

145. Produce all DOCUMENTS wherein YOU evaluated whether YOU should HIRE OR reject a COLLEGE RECRUIT during any part of the SELECTION PROCESS.

146. Produce all resumes of COLLEGE RECRUITS sent to Larry Lynn to review during the RELEVANT TIME PERIOD, including, but not limited to, copies of e-mails in the “sent to Larry” box OR folder of YOUR college_US e-mail account.

147. Produce all spreadsheets AND other DOCUMENTS used, reviewed by OR considered by Larry Lynn for his review of any COLLEGE RECRUITS during the RELEVANT TIME PERIOD, including spreadsheets, resumes, letters, text messages, e-mails, references, transcripts submitted to him during his annual review AND DOCUMENTS including, but not limited to, spreadsheets with any writings made by Larry Lynn.

148. Produce all DOCUMENTS RELATED TO any actions YOU took during the RELEVANT TIME PERIOD in response to any ANALYSES YOU conducted pursuant to 41 C.F.R. § 60-2.17(b) for YOUR Information Technology, Product Development AND Support

Job Functions OR PT1 Job Group, including, but not limited to, all DOCUMENTS RELATING TO action-oriented programs identified in 41 C.F.R. § 60-2.17(c).

149. Produce all DOCUMENTS RELATED TO any actions YOU took during the RELEVANT TIME PERIOD in response to any ANALYSES YOU conducted pursuant to 41 C.F.R. § 60-3.15A for YOUR Information Technology, Product Development AND Support Job Functions OR YOUR PT1 Job Group.

150. Produce all DOCUMENTS RELATED TO any PAY DECISION ANALYSES YOU conducted for the COMPENSATION YOU provided to YOUR employees in YOUR Information Technology, Product Development AND Support Job Functions during the RELEVANT TIME PERIOD, including but not limited to, COMPENSATION audits YOU conducted, statistical ANALYSES YOU conducted, the “salary surveys,” “equity studies,” AND “ad hoc analyses” YOU conducted referenced by either Shauna Holman-Harries OR Lisa Gordon in Lisa Gordon’s interview signed February 15, 2015 at BSN DOL 584, 587-89; AND the “different analyses,” “compensation analyses,” “adverse impact analyses,” “internal audits,” OR “internal self-audits” that YOU conducted that were referenced by Shauna Holman-Harries in her March 26, 2015, interview at BSN DOL 36769, 36772-73.

151. Produce all DOCUMENTS RELATED TO any actions YOU took during the RELEVANT TIME PERIOD in response to any ANALYSES conducted pursuant to the previous document production request.

152. Produce all DOCUMENTS RELATED TO “Oracle’s evaluation of its compensation system” that Shauna Holman-Harries referenced in her June 2, 2015, e-mail at BSN DOL 1212 for YOUR Information Technology, Product Development AND Support Job Functions during the RELEVANT TIME PERIOD, including but not limited to, all of evaluations that YOU

conducted, the underlying data OR information considered in these evaluations, AND the COMMUNICATIONS RELATED TO these evaluations.

153. All DOCUMENTS RELATED TO any actions YOU took during the RELEVANT TIME PERIOD in response to any evaluation conducted pursuant to the previous document production request.

154. Produce all DOCUMENTS RELATED TO YOUR “pay audits to assess legal compliance with Oracle’s non-discrimination obligations and to further ensure Oracle’s compensation policies and practices are carried out” that Shauna Holman-Harries referenced in her June 2, 2015, e-mail at BSN DOL 1212 for YOUR Information Technology, Product Development AND Support Job Functions during the RELEVANT TIME PERIOD, including but not limited to, all of audits that YOU conducted, the underlying data OR information considered in these audits, AND the COMMUNICATIONS RELATED TO these audits.

155. All DOCUMENTS RELATED TO any actions YOU took during the RELEVANT TIME PERIOD in response to any audits conducted pursuant to the previous document production request.

156. Produce all DOCUMENTS RELATED TO any ANALYSES YOU conducted of the SELECTION PROCESS YOU used to HIRE COLLEGE RECRUITS to work for YOU in the PT1 Job Group during the RELEVANT TIME PERIOD.

157. Produce all DOCUMENTS RELATED TO any actions YOU took during the RELEVANT TIME PERIOD in response to any ANALYSES conducted pursuant to the previous document production request.

158. Produce all DOCUMENTS RELATED TO the data, information AND DOCUMENTS you provided to any person at Orrick, Herrington & Sutcliffe, LLP to conduct any ANALYSES

AND evaluation(s) referenced in document production request nos. 143-157, 160-165, 174-175 including, but not limited to, the data, information AND DOCUMENTS that YOU provided to Orrick, Herrington & Sutcliffe, LLP to conduct these ANALYSES AND any data, information AND DOCUMENTS Orrick, Herrington & Sutcliffe, LLP provided to YOU regarding the ANALYSES it conducted.

159. Produce all DOCUMENTS RELATED TO any actions YOU took during the RELEVANT TIME PERIOD in response to any ANALYSES OR evaluation(s) conducted by Orrick, Herrington & Sutcliffe, LLP.

160. Produce all DOCUMENTS RELATED TO YOUR establishment of OR changes to salary grade ranges for the job titles within YOUR Information Technology, Product Development AND Support Job Functions during the RELEVANT TIME PERIOD, including DOCUMENTS RELATED TO YOU matching job titles to salary grades, DOCUMENTS RELATED TO YOUR annual review of market data to adjust salary grades, DOCUMENTS RELATED TO salary surveys YOU reviewed, AND DOCUMENTS RELATED TO the matching of YOUR jobs AND the survey jobs that Lisa Gordon referenced in her interview signed February 15, 2015, at BSN DOL 584, 578. This request includes documents pertaining to salary grades that were matched to job titles prior to the RELEVANT TIME PERIOD wherein this matching remained in effect during the RELEVANT TIME PERIOD.

161. Produce all DOCUMENTS IDENTIFYING the COMPENSATION AND COMPARATIO information that Oracle reviewed during the RELEVANT TIME PERIOD when it considered HIRING OR transferring someone from another company OR an Oracle-affiliated company such as Oracle India Pvt. Ltd. OR a company that YOU acquired to work in the Product Development, Information Technology AND Support Job Functions, including, but not

limited to, the person's: annual OR base salary in the other company in United States dollars; annual OR base salary in the other company in another country's currency, COMPA-RATIO in the other company in another company's currency, bonuses received in the other company, AND what a person's COMPA-RATIO would be with their new salary in the United States in dollars.

162. Produce all YOUR POLICIES, PRACTICES OR PROCEDURES RELATING TO how each employee in the Product Development, Information Technology AND Support Job Functions were ASSIGNED to product lines, product line groups, teams, OR organizations during the RELEVANT TIME PERIOD. This includes assignments requested by YOUR employees AND assignments directed by YOU.

163. For each employee in the Product Development, Information Technology AND Support Job Functions, produce DOCUMENTS RELATING TO what initial product line, product line groups, team, AND organization each employee was ASSIGNED when the employee first started working for Oracle, including DOCUMENTS IDENTIFYING who made the decision for the assignment, DOCUMENTS IDENTIFYING when the assignment decision was made AND DOCUMENTS IDENTIFYING why each employee was ASSIGNED to a particular product line, product line group, team AND organization..

164. Produce all COMMUNICATIONS (including, but not limited to, memos, letters, emails, spreadsheets, reports, print outs, text messages, computer screen shots, computer files, to include any attachments to any of these examples) regarding YOUR employees expressing a desire to move (i.e., transfer) from their current position to a different supervisor, product, product line, organization, OR team in the Product Development, Information Technology AND Support Job Functions during the RELEVANT TIME PERIOD, including, but not limited to DOCUMENTS IDENTIFYING: requests to transfer, evaluations of transfer, justifications for transfer,

SUPPORT for transfer OR recommending rejection of transfer, acceptance OR rejection of transfer, headcount OR budget changes because of the transfer.

165. Produce all YOUR POLICIES, PRACTICES OR PROCEDURES RELATING TO the movement (i.e., transfer) of YOUR employees from their current position to a different supervisor, product, product line, organization, OR team in the Product Development, Information Technology AND Support Job Functions during the RELEVANT TIME PERIOD, including, but not limited to DOCUMENTS IDENTIFYING: information to be included in a transfer request AND the approval OR rejection thereof; guidance for approvals AND rejections of transfer requests; the effect of transfers on headcount; the effect of transfers on budgets, AND PAY DECISIONS RELATED TO transfer.

166. Produce all unredacted deposition transcripts of depositions taken in the *Jewett et al. v. Oracle America, Inc.*, California state case number 17-CIV-02669 litigation.

167. Produce all DOCUMENTS YOU produced to OR received from the plaintiffs in the *Jewett et al. v. Oracle America, Inc.*, California state case number 17-CIV-02669 litigation that were not previously produced in this litigation.

168. Produce all DOCUMENTS YOU provided to OR received from the plaintiffs in the *Jewett et al. v. Oracle America, Inc.*, California state case number 17-CIV-02669 litigation RELATED TO written discovery requests (e.g., interrogatories, requests for admissions, requests for the production of DOCUMENTS) to include the discovery requests, the responses AND meet AND confer COMMUNICATIONS RELATED TO the discovery requests OR responses. This request does not include the DOCUMENTS actually produced RELATED TO the responses, but it does include any AND all COMMUNICATIONS RELATED TO the written discovery requests OR responses thereto.

169. Produce all COMMUNICATIONS (including, but not limited to, memos, letters, emails, spreadsheets, photographs, transcripts, reports, print outs, text messages, computer screen shots, computer files, to include any attachments to any of these examples) RELATED TO allocating budget funds to each organization OR supervisor within the different product lines AND product groups in the Product Development, Information Technology AND Support Job Functions during the RELEVANT TIME PERIOD, including, but not limited to DOCUMENTS pertaining to the amount of budget funds allocated to each organization OR Supervisor, who made each of the decisions to allocate the budget funds allocated, the date each allocation decision was made, what each person who allocated the budget funds considered when allocating these funds OR why each person who allocated the budgets funds chose the specific amount of budget funds allocated to the specific organizations he/she allocated it.

170. Produce all COMMUNICATIONS (including, but not limited to, memos, letters, emails, spreadsheets, photographs, transcripts, reports, print outs, text messages, computer screen shots, computer files, electronic approvals, to include any attachments to any of these examples) wherein someone having a Global Career Level of M7 OR above made any decisions in the SELECTION PROCESS OR PAY DECISIONS for anyone working in the Product Development, Information Technology AND Support Job Functions OR PT1 Job Group during the RELEVANT TIME PERIOD, including, but not limit to, approving job offers, transfers, promotions to a higher Global Career Level, COMPENSATION OR approving recommendations for job offers, transfers, promotions OR COMEPNSATION..

171. Produce all DOCUMENTS during the RELEVANT TIME PERIOD RELATED TO the “TK Campus Program” OR “TK Campus Hires” OR “IDC Campus Hires” wherein college graduates from India were HIRED to work in the PT1 Job Group OR Product Development Job

Function.

172. Produce all COMMUNICATIONS (including, but not limited to, memos, letters, emails, spreadsheets, photographs, transcripts, reports, print outs, text messages, computer screen shots, computer files, electronic approvals, to include any attachments to any of these examples) during the RELEVANT TIME PERIOD between YOU AND COLLEGE RECRUITS.

173. Produce the YOUR AAPs for HQCA YOU are required to make AND maintain pursuant to 41 C.F.R. §§ 60-2.10(b) & (c) from 2013 to the present.

174. Produce all DOCUMENTS RELATED TO any actions YOU took during the RELEVANT TIME PERIOD in response to any ANALYSES YOU conducted pursuant to 41 C.F.R. § 60-2.12 for YOUR Information Technology, Product Development AND Support Job Functions OR YOUR PT1 Job Group.

175. Produce all DOCUMENTS RELATED TO any actions YOU took during the RELEVANT TIME PERIOD in response to any ANALYSES YOU conducted pursuant to 41 C.F.R. § 60-2.12 for YOUR Information Technology, Product Development AND Support Job Functions OR YOUR PT1 Job Group.

176. Produce the data AND DOCUMENTS YOU relied upon when creating the “job groups” in YOUR affirmative action programs during the RELEVANT TIME PERIOD.

177. Produce all COMPENSATION DOCUMENTS for every employee working in the Product Development, Information Technology AND Support Job Functions during the RELEVANT TIME PERIOD.

178. Produce all COMPENSATION DOCUMENTS for every employee working in the Product Development, Information Technology AND Support Job Functions from January 1, 1985, through AND including December 31, 2012, whether OR not they were employees in one

of these Job Functions after January 1, 2013.

179. Produce all DOCUMENTS IDENTIFYING the COMPENSATION AND COMPARATIO information that YOU reviewed during the RELEVANT TIME PERIOD when YOU considered HIRING OR transferring someone from an another company OR an Oracle affiliated company, e.g., Oracle India Pvt. Ltd., OR a company that YOU acquired to work in the Product Development, Information Technology AND Support Job Functions, including, but not limited to, the person's: annual OR base salary in the other company in United States dollars; annual OR base salary in the other company in another country's currency; annual OR base salary at Oracle's headquarters located at Redwood Shores, California; COMPARATIO in the other company AND at Oracle's headquarters located at Redwood Shores, California; bonuses AND stocks received in the other company; AND, if applicable, Global Career Level in the other company AND at Oracle's headquarters located at Redwood Shores, California.

180. For employees listed in the HQCA_iRec_MAIN.xlsx file having a "HIRE_TYPE" of "International Transfer" in Column AR, OR for YOUR employees for which a salary is in a denomination other than US dollars that is listed in the CANDIDATE_CURRENT_SALARY_ATV (Column BC), produce YOUR employee's last COMPARATIO at that Oracle affiliate.

181. Produce all DOCUMENTS of YOUR POLICIES, PRACTICES OR PROCEDURES, RELATING TO the SELECTION PROCESS for COLLEGE RECRUITS from June 1, 2012, to the present.

182. Produce all DOCUMENTS of YOUR POLICIES, PRACTICES OR PROCEDURES, RELATING TO seeking, referring to OR using prior pay information from APPLICANTS, COLLEGE RECRUITS, HIRES OR anyone involved in the SELECTION PROCESS during the

RELEVANT TIME PERIOD.

183. Produce all DOCUMENTS RELATING TO the prior pay of APPLICANTS, COLLEGE RECRUITS, HIRES OR anyone involved in the SELECTION PROCESS during the RELEVANT TIME PERIOD IN YOUR Product Development, Information Technology AND Support Job Functions OR PT1 Job Group, including, but not limited to, DOCUMENTS received from APPLICANTS, COLLEGE RECRUITS, HIRES OR anyone involved in the SELECTION PROCESS, DOCUMENTS showing how YOU used the prior pay information received to make PAY DECISIONS, AND DOCUMENTS comparing OR evaluating the person's prior pay.

DATED: January 30, 2019

JANET M. HEROLD
Regional Solicitor

JEREMIAH MILLER
Acting Counsel for Civil Rights

LAURA C. BREMER
Senior Trial Attorney

/s/ Norman E. Garcia
NORMAN E. GARCIA
Senior Trial Attorney

Attorneys for OFCCP
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United States Department of Labor
90 7th Street, Suite 3-700
San Francisco, California 94103
Tel: (415) 625-7747
Fax: (415) 625-7772
Email: garcia.norman@dol.gov

CERTIFICATE OF SERVICE

I am a citizen of the United States of America and am over eighteen years of age. I am not a party to the instant action; my business address is 90 Seventh St., Rm. 3-700, San Francisco, CA 94103.

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

Connell, Erin M.: econnell@orrick.com

Kaddah, Jacqueline D.: jkaddah@orrick.com

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

Siniscalco, Gary: grsiniscalco@orrick.com

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

Executed: January 30, 2019

/s/ Laura C. Bremer
LAURA C. BREMER
Senior Trial Attorney

Office of the Solicitor
U.S. Department of Labor





February 15, 2019

VIA ELECTRONIC MAIL ONLY

Erin M. Connell
ORRICK HERRINGTON & SUTCLIFFE LLP
405 Howard Street
San Francisco, CA 94105
econnell@orrick.com

Re: *OFCCP v. Oracle America, Inc.*, Case No. 2017-OFC-00006,
Data Requests

Dear Erin,

OFCCP wants to ensure that we have adequate time to prepare our case for the December 2019 hearing date set by Judge Clark. In furtherance of that goal, OFCCP agreed that it would forego the requirement that Oracle supplement all data previously produced; accordingly, yesterday, we sent Oracle an index showing data files for which we are not seeking supplementation. In addition, we are writing this letter to follow up on requests for data OFCCP has previously requested, but have not yet been provided.

Educational Data and Experience of Oracle Employees in Compensation Class

OFCCP has repeatedly requested that Oracle produce data showing employees' educational background and experience, which are relevant to both the hiring and compensation claims. However, it does not appear that Oracle produced all relevant data. For example, Oracle produced data from iRecruitment in both folder I (relating to compensation), and folder II (relating to hiring). The iRecruitment data produced in folder II includes data regarding applicants' experience and education in the following tabs: APL_EMPLOYMENT_HISTORY, APL_QUALIFICATIONS, and APPLICANT_PROFILES. This data is also highly relevant for the compensation class, but Oracle did not produce it. While OFCCP does not need this data for all applicants, we request, at a minimum, that this data be produced for all persons hired by Oracle in the three job functions at issue in the compensation case.

Oracle produced very limited data for the college hires from January 1, 2013 through May 2015 from "Workflow," in ORACLE_HQCA_0000062859. OFCCP is not requesting that this file be supplemented up to the present, since we understand that hiring information for college students after May 2015 will be found in iRecruitment and/or Taleo. However, we request that all educational information available in Workflow be provided for the persons already included in this file (school, major, and degree).

OFCCP reiterates its request for educational data for both the compensation class and the hiring class.

Visa Data

Since October 11, 2017, I objected to the limited visa information Oracle produced, which was even more limited than the visa data produced during the compliance review. I again requested that Oracle produce visa information while the case was stayed, and again last month after the stay in the case was lifted. Further, OFCCP served RFPs which request visa information. We request that Oracle produce the following information for both the PT1 job group and Product Development, Support, and Info Tech Job Functions:

OFCCP requests data on all types of U.S. visas or extensions thereto (*e.g.*, E-3, F-1, F-1 with OPT EXTENSION, F-1 with STEM OPT EXTENSION, H-1B, H-4, J-1, L-1, L-1A, L-1B, L-2, O-1, TN, CAP-GAP EXTENSIONS) obtained by both Oracle employees and sought on behalf of applicants for PT1 positions. Specifically, OFCCP requests visa data for Oracle employees in the PRODEV, INFTECH, and/or SUPP job functions at HQCA (for the entire time period for which compensation information is provided for such individuals) and, at a minimum, persons hired for positions in the PT1 job group at HQCA from January 1, 2013 to the present; for these individuals, data showing all visas applied for or held at any time, including the type(s) of visa(s) held and the time that they were held, and country of origin for these applicants and employees. All keys (such as PARTY_ID or PERSON_ID) should be included so the data can be linked to other data sets. Further, demographic information should be included in the data file.

Compa-ratios

We previously requested historical compensation data for Oracle employees that transferred from Oracle affiliates outside of the United States, since Oracle only included employee data for employees while they were employed in the United States. You admitted that your scripts were not written to include compensation data regarding Oracle employees who were international transfers from Oracle India and other Oracle subsidiaries. We understand that Oracle has access to this information and it would have been reviewed by managers setting pay when the employee transferred to the U.S. Therefore, it is highly relevant. At a minimum, we request each employee's last compa-ratio at an Oracle affiliate before transfer to the Support, Product Development, and Info Tech Job Functions at HQCA. For the iRec data, for example, that would include employees listed in the HQCA_iRec_MAIN.xlsx file having a HIRE_TYPE of International Transfer in Column AR, or employees for which a salary in a denomination other than US dollars is listed in the CANDIDATE_CURRENT_SALARY_ATV (Column BC).

Historical Data

My understanding is that for employees in the three job functions in the compensation class, Oracle produced their pay history going back to 1985. In order to fully analyze this data, including the impact of starting pay, OFCCP requests compensation data for all employees who received compensation during that same period, even if they left HQCA before 2013. This is the

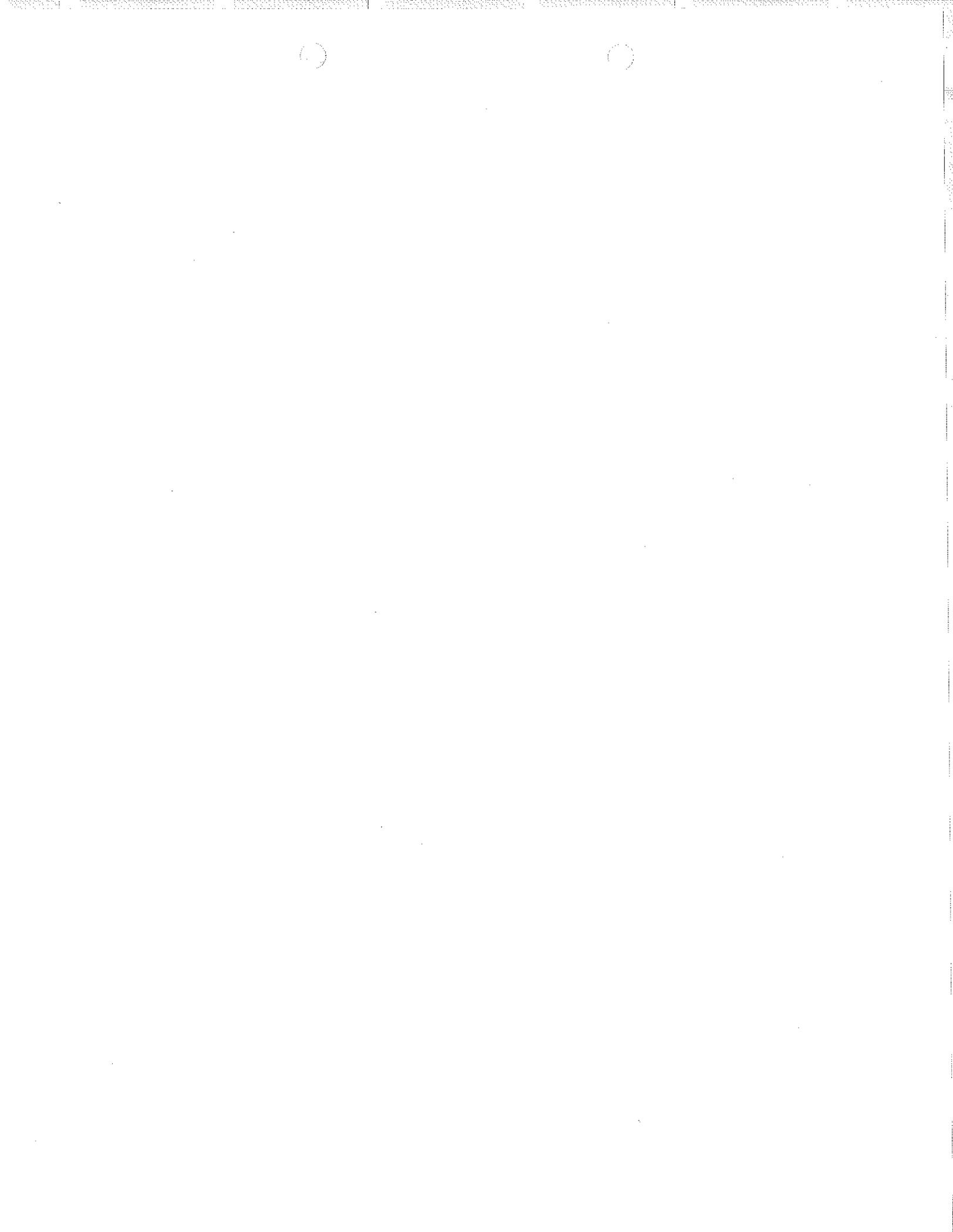
reason we requested data for all employees at HQCA in Product Development, Support, and Information Tech extending back to 1985.

We look forward to talking to you further about these issues.

Sincerely,

A handwritten signature in black ink, appearing to read "Laura C. Bremer". The signature is fluid and cursive, with a long horizontal stroke at the end.

Laura C. Bremer





February 27, 2019

Via E-Mail

Laura C. Bremer
U.S. Department of Labor
Office of the Solicitor
90 Seventh Street, Suite 3-700
San Francisco, CA 94103

Orrick, Herrington & Sutcliffe LLP
The Orrick Building
405 Howard Street
San Francisco, CA 94105-2669
+1 415 773 5700
orrick.com

Kathryn G. Mantoan

E kmantoan@orrick.com
D +1 415 773 5887
F +1 415 773 5759

Re: OFCCP v. Oracle America, Inc., OALJ Case No. 2017-OFC-00006
Response to February 14 & February 15 Correspondence Re: Data Production

Dear Laura:

I write in response to your February 14, 2019 email and February 15, 2019 letter regarding data production in this case.

As a threshold matter, to the extent that your letter suggests that Oracle has not been forthcoming with respect to its data production, Oracle disagrees with OFCCP's misleading characterizations. Oracle produced a massive amount of compensation and hiring data within tight deadlines, and researched and wrote several follow-up letters answering data questions to the best of its knowledge and ability. The process of identifying and extracting data for thousands of employees from both active and legacy data repositories is not as simplistic or streamlined as your communications appear to suggest, and your assertions to the contrary are inaccurate and not well-taken. That said, Oracle provides the following additional information in effort to meet and confer in good faith.

Supplementation of Previously-Produced Data Files

On February 14, 2019, you provided a PDF ("Index of Data Spreadsheets identifying spreadsheets to supplement - to Oracle.pdf") listing data files that had Oracle previously produced and noting in red font the files for which OFCCP is willing to forego supplementation at this time. Our understanding is that OFCCP is requesting supplementation of all other files identified in that PDF.

As you know, Oracle's data file production was organized into two broad categories: (1) data files related to the population at issue with respect to OFCCP's compensation claims (pages 1-2



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of your February 14, 2019 pdf) and (2) data files related to the population at issue with respect to OFCCP's hiring claims (pages 3-4 of your February 14, 2019 pdf). OFCCP's requests related to these two categories of data are addressed separately below.

With respect to compensation-related files: Oracle agrees to supplement the data files requested by OFCCP by (1) updating the population with additional individuals who worked in the INFTECH, PRODEV, or SUPP job functions at HQCA from January 18, 2017 through January 18, 2019, inclusive (see explanation for this cut-off date below), and (2) providing readily available updated data, if any, for both the original compensation population and the updated compensation population through January 18, 2019. Oracle will further supplement through January 18, 2019 any additional data files whose supplement Oracle intends to make available to its expert(s) for consideration. Oracle will provide this supplemental data on a rolling basis, and anticipates completing this production by May 31, 2019 (barring any presently unanticipated data extraction issues).

With respect to hiring-related files: The proposed Second Amended Complaint limits OFCCP's hiring allegations to hiring done through Oracle's "college recruiting program" (or "college hiring program") for "Product Development positions in Oracle's PTI job group." [Proposed Second Am. Compl. ¶¶ 32-39. Oracle agrees to supplement the data files requested by OFCCP related to its hiring claims with available data, if any, through January 18, 2019. Oracle will further supplement through January 18, 2019 any additional data files whose supplement Oracle intends to make available to its expert(s) for consideration. This supplementation, however, will be limited to data related to OFCCP's amended and narrowed hiring allegations—*i.e.*, applicants and hires through Oracle's "college recruiting program" for "Product Development positions in Oracle's PTI job group."

Because this is a new population of individuals, Oracle will need to identify the relevant population and revise the scripts used to retrieve the requested data. Oracle will provide this data on a rolling basis. Oracle anticipates completing production of the requested data before May 31, 2019 (barring any presently unanticipated data extraction issues). Oracle will update OFCCP promptly if any unanticipated data extraction issues arise.



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Temporal Scope of Oracle's Data Production

Oracle already has begun the significant work required to supplement the data files as described above, applying a date cut-off of January 18, 2019. By supplementing the agreed-upon data files through January 18, 2019, Oracle is producing two additional years of available data while providing consistent data parameters both for purposes of extraction and analysis by each party. By its nature, any analyses of this type of data are always limited to a particular date range, and by using a start date of January 1, 2013 and a cut-off date of January 18, 2019, the parties will each have more than *six years*' worth of data to analyze. Please notify us promptly if OFCCP wishes to meet and confer further regarding this date range.

Educational Data and Experience of Oracle Employees in Compensation Class

Despite your suggestion to the contrary, Oracle has already produced educational and experience data—including over 3,900 resumes—for individuals related to the compensation population. See ORACLE_HQCA_0000070747.xlsx (HQCA_IREC_DATA.xlsx), "RESUMES" tab, and corresponding folder.

Nonetheless, we are willing to investigate obtaining additional iRecruitment data for the compensation population. Specifically, as requested in your February 15, 2019 letter, we will investigate whether data is available for the compensation population that corresponds to the following tabs provided for the hiring population in PT1_HQCA_IREC_MAIN.xlsx (ORACLE_HQCA_0000128176.xlsx) : (1) APL_EMPLOYMENT_HISTORY, (2) APL_QUALIFICATIONS, and (3) APPLICANT_PROFILES.

We note that this investigation will likely require the creation of additional scripts and/or alteration of existing scripts to account for the differences in how the data for the hiring population data was pulled (by requisition/vacancy) versus how the data for the compensation population was pulled (by individual). We also note that this information is likely only available for the period of time in which iRecruitment was used to process applications (as opposed to offers). We anticipate producing this data on a rolling basis, and will update you promptly if we encounter any unexpected extraction issues that may impact completing production by the May 31, 2019 deadline.



Laura C. Bremer, Esq.

February 27, 2019

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OFCCP also asks for all educational information within Candidate Offers (ORACLE_HQCA_0000062859.xlsx), but Oracle has already provided this information.¹ Specifically, the educational information OFCCP requests is in ORACLE_HQCA_0000062859.xlsx, column X("LONG_TEXT"). That field contains the candidate's available resume data, including school, major, and degree.

Visa Data

Oracle will respond to OFCCP's requests and questions regarding visa data in separate correspondence. As we've stated before, this data is not kept in the centralized Oracle data repositories in which other data is maintained (e.g., GSI, Fusion, iRecruitment, Taleo), and thus can only be obtained through an entirely separate process.

Compa-ratio

We have asserted objections to OFCCP's document requests on this issue, and invite OFCCP to meet and confer further on it, explaining why the information sought is relevant and warranted here. See Oracle's Objs. and Resps. to OFCCP's RFP Set 5, Nos. 161, 179.

Historical Data

For the first time, OFCCP is now requesting compensation data for all Oracle HQCA employees who worked in the Product Development, Support, or and IT job functions at any time since 1985. See Oracle's Objs. and Resps. to OFCCP's RFP Set 5, No. 178. This patently overbroad request for information compounds the oppression and burden OFCCP seeks to impose on Oracle, and seeks to require production of personal information for *decades*' worth of employees who cannot possibly have any actionable claims in this matter. Indeed, OFCCP appears to acknowledge that any claims based on acts or omissions occurring prior to January 1, 2013 are barred by the statute of limitations, and in any event there is no claim that the alleged unlawful

¹ As mentioned in Jennifer Pitcher's December 8, 2017 letter to Marc Pilotin, the "workflow" data in ORACLE_HQCA_0000062859.xlsx refers to "Candidate Offers" data.



Laura C. Bremer, Esq.
February 27, 2019
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practices were in existence continuously, if at all, prior to that date. Discovery into that period therefore is irrelevant.

Please let us know if you would like to schedule a call to discuss these matters further.

Sincerely,

A handwritten signature in cursive script, appearing to read "Kathryn G. Mantoan".

Kathryn G. Mantoan



March 6, 2019

VIA ELECTRONIC MAIL ONLY

Kathryn G. Mantoan
ORRICK HERRINGTON & SUTCLIFFE LLP
405 Howard Street
San Francisco, CA 94105
kmantoan@orrick.com

Re: *OFCCP v. Oracle America, Inc.*, Case No. 2017-OFC-00006,
Data Requests

Dear Katie,

This letter responds to your February 27, 2019 letter to me regarding data production.

Supplementation of Previously-Produced Data Files

On February 14, 2019, in an effort to compromise on discovery, and ensure that Oracle supplemented previously-produced data to OFCCP as quickly as possible, OFCCP sent Oracle a spreadsheet showing data that it was willing to forgo at this time. Nevertheless, with respect to the hiring data, Oracle is undertaking an additional burden to revise the scripts to narrow its production. In other words, it will be more efficient and less burdensome to supplement the data for the same populations of applicants and hires as Oracle produced previously. Changing its scripts and the data it produces will also place a higher burden on OFCCP and its experts to understand the new filters on the data, and changes to the data set. It will lead to more correspondence and other discovery, including depositions, regarding the data. Creating additional burdens on both the parties, and delaying Oracle's supplementation of the hiring data is unwarranted, and at odds with procedural rules regarding discovery.

Moreover, the pool of applicants and hires for which Oracle previously produced data remains relevant, both because the proposed Second Amended Complaint has not yet been filed, and because OFCCP explicitly reserves the right to amend the complaint to allege hiring discrimination on behalf of experienced hires. Oracle's approach throughout the compliance review and this litigation has been to narrow its responses so much that it excludes relevant information. There are instances where data entries are inconsistent; to take an example from the experienced hires, some applicants who transferred from Oracle affiliates in other countries are designated "New Hires" in the data, while others are "International Transfer." Thus, excluding a particular type of hire may inadvertently exclude people who actually should be included in the pool. Further, all (or virtually all) the experienced hires into the PT1 job group from 2017 through 2019 are also employees in the compensation pool. Thus, the applicant and hiring data of these employees is relevant to the compensation case. OFCCP does not agree with the

limitations Oracle is unilaterally making to its supplementation of the hiring data. OFCCP requests that if Oracle continues to take the position that it can narrow the data, Oracle should identify which data files for which it intends to rewrite the scripts prior to supplementation, and how it intends to filter the data and narrow the pool of data. From Oracle's response, it does not appear that Oracle is taking the position that it will not supplement some of the hiring data files on the ground that they are no longer relevant. However, if OFCCP's understanding is incorrect, please identify any hiring files that OFCCP requested be supplemented, but that Oracle does not intend to supplement.

OFCCP also notes that with regard to the hiring data Oracle only agrees to "supplement the data fields requested by OFCCP related to its hiring claims with *available data, if any.*" What is "available data?" If Oracle is taking the position that some of the data or files that OFCCP requested be supplemented are not "available," please identify them. Please identify any hiring files that Oracle does not intend to supplement, so that the parties can meet and confer.

Finally, if Oracle has new databases that contain the types of data that Oracle produced previously, Oracle is obligated to supplement its data production from these sources. If there are new sources of data, please identify them, so that we can adequately meet and confer.

With respect to the compensation data, Oracle also includes the qualification that it will only provide "*readily available updated data, if any.*" Again, please explain this qualification. If there are compensation files that OFCCP identified for supplementation that Oracle does not intend to supplement, or data that is not "readily available," please identify it. If Oracle has new databases storing the compensation data that Oracle previously produced, Oracle will need to supplement its data production from such databases. If there are any such new databases, please identify them.

Educational Data and Experience of Oracle Employees in Compensation Class

Your letter indicates that Oracle would investigate whether data is available for the compensation population that corresponds to the following tabs provided for the hiring population in PT1_HQCA_IREC_MAIN.xlsx: (1) APL_EMPLOYMENT_HISTORY, (2) APL_QUALIFICATIONS, and (3) APPLICANT_PROFILES. Please confirm that you will be producing this data for the compensation population. If Oracle does not plan to produce such data, let us know immediately, and provide a justification for not producing such highly relevant data.

If Oracle has additional educational data available for any of Oracle's for whom Oracle produces compensation data or for anyone for whom it produces data for the hiring case, OFCCP requests that Oracle produce it. If no further data showing such employees' education or experience is available, please confirm that Oracle has conducted a reasonably diligent search and no further data is available.

Compa-ratios

In my February 15, 2019 letter, I explained why the data showing the compa-ratios of employees transferred to HQCA from Oracle's affiliates abroad is highly relevant. Oracle has admitted that compa-ratios are relevant to the compensation case and have produced data

regarding compa-ratios. We understand that Oracle has access to this information and it would have been reviewed by managers setting pay when the employee transferred to the U.S. Although compa-ratio data is both highly relevant and available, Oracle wrote scripts to exclude the data from its production. This was improper. It may be easiest to simply produce the historical compa-ratios of all Oracle employees, whether they were employed by an Oracle affiliate abroad or in the United States. At a minimum, we request each employee's last compa-ratio at an Oracle affiliate before transfer to the Support, Product Development, and Info Tech Job Functions at HQCA. For the iRec data, for example, that would include employees listed in the HQCA_iRec_MAIN.xlsx file having a HIRE_TYPE of International Transfer in Column AR, or employees for which a salary in a denomination other than US dollars is listed in the CANDIDATE_CURRENT_SALARY_ATV (Column BC).

Temporal Scope of the Data

Although OFCCP is entitled to data through the date that Oracle produces such information, or at least the date that it gathers the information, it is willing to accede to Oracle's proposed end date of January 18, 2019 for the data. Of course, if the schedule of the case changes significantly, OFCCP reserves the right to further supplement the data.

With respect to the start date for the data, Oracle's response to OFCCP's request for historical data misconstrues the request. OFCCP is not requesting this data to bring "actionable claims" in this matter on behalf of employees who were only employed at HQCA prior to 2013. Rather, OFCCP seeks historical data of such employees to compare to the historical data of Oracle employees that OFCCP already produced. Oracle has already produced historical data for its employees going back to 1985, acknowledging that such historical data is relevant to an analysis of compensation. To render the analysis more complete, and to fully analyze the data, including the impact of starting pay, OFCCP requests compensation data for Oracle employees in HQCA who worked in the same job functions as the employees in the compensation class (in other words, the class members' comparators). Such data is relevant to OFCCP's statistical analysis of the compensation data. This is the reason we requested data for all employees at HQCA in Product Development, Support, and Information Tech extending back to 1985.

Oracle does not claim that producing historical data would be burdensome. In fact, my understanding is that it is easier to write a script to extract data for all employees from 1985 through 2019 than to write a script that will exclude a portion of those employees (those who were employed at HQCA prior to 2013). Nevertheless, OFCCP is willing to compromise on the amount of historical data it will accept. OFCCP suggests that as Oracle revises its scripts to supplement its compensation data through 2019, that it also seek historical data for Oracle employees at HQCA in Product Development, Support, and Information Tech job functions for the 10 years prior to 2013 (in other words, 2002). To clarify, Oracle would be supplementing the compensation data it provides forward and backward, providing the same types of data for employees in the Product Development, Support, and Information Tech job functions who were employed at HQCA from 2002-2013 (including the same type of historical data that Oracle already produced for employees from 2013-2016). It should be relatively easy to rewrite the scripts to obtain this additional data.

We look forward to talking to you further about these issues.

Sincerely,

A handwritten signature in black ink that reads "Laura C. Bremer". The signature is written in a cursive style with a horizontal line extending from the end of the name.

Laura C. Bremer



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March 14, 2019

Laura C. Bremer
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Kathryn G. Mantoan

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Re: OFCCP's Requests for Supplemental Data Production

Dear Laura:

I write in response to your letter dated March 6, 2019. Thank you for agreeing in that letter to Oracle's proposed end date of January 18, 2019 for supplementation of the relevant populations and data files. Below I write to address in turn the other issues you raised.

Scope of Supplementation of Group II (Hiring) Data Files

On February 14, 2019, OFCCP provided a list of all of the files previously produced for Group II (Hiring) for which it was requesting supplementation. Oracle agrees to supplement all of the files requested by OFCCP through January 18, 2019 for individuals relevant to OFCCP's revised and narrowed recruiting and hiring claims (*i.e.*, individuals hired into Oracle through the "college recruiting" program). However, Oracle does not agree to supplement any of those Group II (Hiring) files with respect to individuals not hired through the college recruiting program, given that OFCCP's Second Amended Complaint limits its hiring claim along these lines. *See* Second Am. Compl. at 14 n. 1 ("At this time, OFCCP is only pursuing a hiring claim focused on Oracle's college and university hiring program."). OFCCP's suggestion that Oracle must supplement its database with experienced hiring data as well is not appropriately tailored. We are not aware of any authority that would support discovery related to claims that a party has dismissed or clarified that it is not asserting. Moreover, OFCCP's argument that Oracle must supplement data regarding experienced hires because OFCCP may amend its SAC again to include experienced hires is inconsistent with Judge Clark's ruling on OFCCP's motion for leave to amend.

OFCCP incorrectly focuses on what it perceives to be the burden of drafting revised scripts tailored to the narrower hiring population now at issue. While we appreciate OFCCP's



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acknowledgement that drafting scripts can be burdensome, drafting scripts is not the sole factor in assessing burden. Pulling massive amounts of data, quality checking, and executing complex scripts are also burdensome. In addition, and perhaps more significantly, Oracle will not agree to produce confidential employment and personnel data of third-party employees unconnected to the scope of the claims now at issue in the case.

Furthermore, OFCCP states that “all (or virtually all) of the experienced hires in the PT1 job group from 2017 to 2019 are also in the compensation pool.” This fact, if true, undermines OFCCP’s reason for asking Oracle to produce data for all experienced hires, as Oracle has already agreed to supplement data out of iRecruitment and Taleo for the compensation population.

Finally, OFCCP represents that it needs additional experienced hiring data because it claims to have found “inconsistent” entries in the data produced to date. Not so. Data coded differently in different databases or sources does not mean it is inconsistent. For example, it would not be inconsistent for managers to label an individual who transferred from an Oracle international affiliate to Oracle America, Inc. as an “international transfer” or a “new hire”; both or either may be correct, depending on the data field in which the information is recorded and the purpose for which it is recorded.

“Available Updated Data, If Any”

OFCCP takes issue with Oracle’s agreement in its February 27 letter to “provid[e] *readily available updated data, if any*, for both the original compensation population and the updated compensation population through January 18, 2019” (emphasis added), subject to the limitations set forth in that letter. The February 27 letter referenced “readily available updated data, if any” primarily because certain of the data files previously produced were pulled from legacy systems no longer in use, such that additional entries post-dating Oracle’s earlier production would not exist. For example, Oracle will not be providing supplemental data from the GSI database for the original compensation population because there is none; all available data in GSI has already been produced for those individuals and later entries in the data fields at issue now reside in Fusion.

Educational Data for Oracle Employees in Compensation Population

OFCCP asks Oracle to “confirm that you will be producing [tabs (1) APL_EMPLOYMENT_HISTORY, (2) APL_QUALIFICATIONS, and (3) APPLICANT_PROFILES] for the compensation population” in HQCA_IREC_DATA.xlsx. But Oracle’s February 27 letter already expressly stated that we anticipate producing such data on a



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rolling basis, and will update OFCCP promptly if we encounter any unexpected extraction issues that would impact completion of that production. For avoidance of doubt, Oracle will produce these fields both for the original compensation population and the supplemental compensation population through January 18, 2019.

Your March 6 letter further requests that Oracle commit to producing all “additional educational data” for all individuals in compensation and/or hiring populations. Oracle has produced, and will supplement, information on education for these populations that is available in Oracle’s centralized HRIS data systems. Oracle has also produced, and will continue to produce, resumes stored in those systems for the populations at issue, which generally also contain educational information. As you are no doubt aware from your review of the data files and attachments produced to date, those systems do not capture and record educational information for all individuals in the populations – by way of just two examples, for individuals hired into Oracle years before those central data repositories were active, or others who joined Oracle through acquisitions. Oracle has conducted a reasonably diligent search, and is producing the education data it discovers pursuant to that reasonable search. We are not withholding or refusing to produce any educational data we have discovered pursuant to that search. We also readily acknowledge that neither party may use education data (or any data) in motion practice or at the hearing that was requested in discovery and not produced. We do not believe there remains any dispute on this issue, as Oracle will continue to produce available data within its centralized databases responsive to OFCCP’s requests, and anticipates completing this production within the deadlines set for data production.

Compa-Ratios From International Affiliates of Oracle America, Inc.

While Oracle is willing to continue to meet and confer on this topic, Oracle maintains its objections to producing compa-ratio data for employees of its international affiliates.

OFCCP has not explained why production of international compa-ratio data, in addition to what is already available in the extensive data Oracle has produced, is warranted here. As OFCCP acknowledges in its February 15 letter, Oracle has already produced prior pay information for individuals in the compensation population, including international transfer employees’ prior pay data, in the file ORACLE_HQCA_0000070747 (HQCA_IREC_DATA.xlsx), tab “OFFER_CANDIDATES,” column BC (“CANDIDATE_CURRENT_SALARY_ATV”).¹ In addition, Oracle has also already produced the comments provided by hiring and/or HR

¹ Such information was also previously provided in ORACLE_HQCA_0000128176 (PT1_HQCA_IREC_MAIN.xlsx) for experienced hires, but given OFCCP’s more limited hiring claims in the operative complaint, such information is no longer relevant.



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managers in the iRecruitment approval workflow for new hires, which OFCCP can readily review to identify where a hiring and/or HR manager referenced the individual's compa-ratio at an international affiliate. *See, e.g.*, ORACLE_HQCA_0000070747 (HQCA_IREC_DATA.xlsx), tab "OFFER APPROVAL COMM HISTORY," column H ("COMMENTS") at VACANCY_NAME IRC1971522 (emphasis added) ("We are requesting approval to relocate ██████████ to the US. ... ██████████ is currently at Sr. Manager level and we are requesting to transfer him at the same level. We have discussed the management opportunity here at HQ with ██████████ and he is interest in moving to Headquarters. He has a *current comparatio ██████████ with a salary of ██████████* We have discussed compensation with ██████████ and he believes he cannot accept a salary of less than ██████████ Hence, we are requesting approval for a salary of ██████████ which maps to the ██████████ of the M3 range."); *id.* at VACANCY_NAME IRC2351658 (emphasis added) ("This request is for approval to facilitate an international transfer from IDC to US-HQ for our ██████████ as a Software Developer 3 in IDM Development for Identity Governance team. ... *Currently ██████████ salary is ██████████ INR (IDC IC3 software developer range- ██████████ for a comparatio of ██████████* Proposing an annual salary of ██████████ as an Senior Software Developer (US IC3 software developer range ██████████) for a comparatio of ██████████ Within ██████████ benchmark for IC3(HQ only) of Ave: ██████████). OFCCP has not articulated any reason that it also needs Oracle to separately pull each individual's pre-transfer compa-ratio at an Oracle affiliate when it already has such extensive information.

Moreover, the request as framed clearly seeks information that is not in Oracle America, Inc.'s possession, custody or control. *See* Fed. R. Civ. P. 34(a)(1) (party only obligated to produce only those records that are in its "possession, custody, or control"). OFCCP suggests in its February 15 and March 6 letters that it is entitled to international compa-ratio data because "Oracle has access to this information and it would have been reviewed by managers." But that claim is wrong both factually and legally. While it is true that some hiring managers may have obtained information regarding an individual's compa-ratio at an international affiliate as part of processing a particular transfer into Oracle America, Inc., this information is not available to those managers as a matter of course. Rather, if an individual was employed at an international affiliate, a hiring manager or HR representative or manager would have to request the international compa-ratio data specifically for that individual. Such requests are often oral and are not directly reflected or recorded in any central HRIS data source (*e.g.*, Workforce Compensation; iRecruitment). Moreover, the Ninth Circuit has expressly rejected the argument that merely because a party has access to information means that it has possession, custody or control over it. *See In re Citric Acid Litig.*, 191 F.3d 1090, 1107 (9th Cir. 1999) (refusing to



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“define ‘control’ in a manner that focuses on the party’s practical ability to obtain the requested documents,” and holding instead that “the legal control test is the proper standard”).²

OFCCP’s Request for Data for Individuals Outside the Populations At Issue

As noted above, the parties appear to be in agreement as to the end date for production of updated data for the compensation and hiring populations, as those populations are framed by OFCCP’s Second Amended Complaint. Oracle maintains its objections, however, to OFCCP’s request for historical compensation data for all Oracle HQCA employees who worked in the Product Development, Support, or IT job functions at any time since 1985.

OFCCP’s March 6 letter incorrectly states that “Oracle does not claim that producing historical data would be burdensome.” To the contrary, my February 27 letter clearly stated that OFCCP’s request further “compounds the oppression and burden OFCCP seeks to impose on Oracle” Lest there be any doubt, Oracle opposes producing three decades of historical data for employees *who never worked at HQCA after January 1, 2013 and are undisputedly outside of the populations at issue* as oppressive and unduly burdensome, as well as disproportionate to the needs of the case.

Additionally, OFCCP’s discussion of burden is inappropriately cabined to a discussion of how easy it would be to write a script to extract nearly 30 years’ worth of additional data. OFCCP speculates—without basis—that it would be easier to write a script to pull all historical compensation data anywhere in its data repositories, instead of a more limited and tailored subset. This is factually incorrect. Moreover, OFCCP focuses too narrowly on the drafting of the script in its burden analysis. The complexity of executing the script, as well as the volume of the data that it returns, also contribute to the burden. And again, OFCCP ignores the privacy rights of third-party employees unconnected to the scope of the claims now at issue in the case, and further ignores that *Oracle has agreed to produce historical data for the employee populations at issue who worked during the liability period*. We are unaware of any legal authority that would require Oracle to produce the additional and monumentally burdensome volume of pre-liability discovery you seek; if you are aware of any that you believe would require such production, we ask that you provide it now. If you do not identify any such authority, we will presume it is because none exists. *Cf.* Fed. R. Civ. P. 26(b)(1) (limiting scope

² Furthermore, even if Oracle had legal control over data of a separate legal entity and international affiliate, the likely burden of obtaining this data would be disproportionate to its relevance and the needs of the case.



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of discovery to that which is “proportional to the needs of the case, considering” (*inter alia*) “whether the burden or expense of the proposed discovery outweighs its likely benefit”).

Please contact me if you would like to discuss these matters further. In the meantime, as we have indicated previously, Oracle is working diligently to pull supplemental data related to the claims at issue in the litigation and will produce such files on a rolling basis.

Very truly yours,

A handwritten signature in black ink, appearing to read "Kathryn G. Mantoan", with a long horizontal flourish extending to the right.

Kathryn G. Mantoan

March 20, 2019

VIA ELECTRONIC MAIL ONLY

Kathryn G. Mantoan
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Re: *OFCCP v. Oracle America, Inc.*, Case No. 2017-OFC-00006,
Data Requests

Dear Katie,

This letter responds to your March 6, 2019 letter to me regarding data production. I provide further support for our requests, but for some of the issues I believe it would be most productive to have a conversation about them. Accordingly, I suggest that we schedule a meet and confer conversation for the end of the week in the hopes of resolving the outstanding issues on Oracle's data production.

Compa-ratios

Oracle acknowledges that compa-ratios are relevant, but (so far) refuses to produce them for international transfers. Contrary to your representations, the international transfers' compa-ratios at the Oracle affiliates are routinely available to managers setting pay upon transfer to the United States and are highly relevant to compensation decisions. Oracle's module on "Managing Pay Decisions" directs "To determine appropriate salaries for international transfers transferring to the same position in the new country use the employee's current compa-ratio and keep it constant in the salary range of the new country." As Oracle's training explains, "[t]his methodology places the salary at the same position in range in the new country as in the old country." Similarly, Oracle's "Global Compensation Training" directs managers setting pay during "Cross-Border Transfers" that "[i]f the employee's job code is not changing in the [international] transfer, use the employee's current compa-ratio as a starting point to determine the base salary in the new location."

Your suggestion that salary at the Oracle affiliate could be used as a substitute for compa-ratio is dismissed by Oracle's own training materials. Managing Pay Decisions cautions against using prior salary to set pay. "Do not simply convert the current salary to the new salary." Similarly, Oracle's Global Compensation Training emphasizes, "You should pay appropriately in the new country. Do NOT simply transfer at the same salary level converted to the new currency." Given Oracle's directions to its managers, compa-ratio is the key data point in setting

compensation, not prior salary. Thus, Oracle's suggestion that prior salary could be used as a substitute is contradicted by its own training materials.

Oracle's training materials also contradict your statement that compa-ratios are not in Oracle's possession, custody, or control. Oracle's policies and training, as well as the systems interviews we conducted, reveal that Oracle uses a "global compensation system," that includes the data of its affiliates. As stated above, Oracle managers are directed to routinely access data showing the compa-ratios employees in other countries have. Oracle's Information Workbench has data for Oracle global, and can filter by country, by employee, and other categories. Significantly, you do not deny that Oracle wrote scripts to exclude compa-ratios of international transfers from its data pull in 2017.

Moreover, your suggestion that some comments include references to compa-ratios is no substitute for the complete data, showing the prior compa-ratios for all international transfers. You acknowledge that the comments do not provide complete data, and, in any event, the comments are not data that can be used in a statistical analysis.

I also note that in June 2017, OFCCP requested compa-ratios and salary histories for each employee in the Product Development, Support, and Information Technology job functions. Oracle agreed repeatedly that it would produce the data requested, without disclosing that it would exclude the salary history and compa-ratios of employees working abroad, despite the fact that this data is contained in Oracle's Global Compensation databases. Despite Oracle's agreement to produce all salary histories for employees (including compa-ratios), OFCCP drastically limited its request to the last compa-ratios of international transfers before they transferred from abroad. OFCCP also specifically requested compensation and compa-ratio information for international transfers in RFPs 161, 179, and 180.

It appears that Oracle is refusing to produce the most relevant piece of data for the compensation of international transfers – data that Oracle itself uses in setting the compensation of international transfers. If Oracle does not reconsider its position on this issue by the end of the week, we intend to bring a motion to compel this data.

Compensation History Data

Your letter requests authority requiring Oracle to produce "pre-liability discovery." The Secretary of Labor in *OFCCP v. Uniroyal, Inc.*, No. OFCCP 1977-1, at 9 (Sec'y June 28, 1979), held that "discovery is not limited to the issues raised by the pleadings and that the correct test for the scope of discovery is relevancy to subject matter of the suit." Accordingly, the Secretary of Labor permitted discovery extending back in time eight years prior to the compliance review. *Id.*; see also, *U.S. Dep't of Labor v. Prudential Ins. Co.*, 1980 WL 275523, *8 (July 27, 1980) (allowing OFCCP to obtain historical data prior to review period). As I previously explained, the data of employees in the same job functions and for the same period of time for which Oracle produced data for class members is not sought to establish *liability* for the those people; rather it is to conduct a statistical analysis of historical compensation data that includes all relevant data – the data of all persons employed by Oracle in the job functions at issue. In a case alleging, *inter alia*, that "Oracle pays women and Asians less on hire," including "by suppressing their pay relative to other employees in the same or comparable job," it is highly relevant to obtain the

data of “other employees in the same or comparable job.” Second Amended Complaint, ¶ 18. Thus relevance of data of comparators was recognized in *U.S. Dep’t of Labor v. Harris Trust & Savings Bank*, 78 OFC-2 (ALJ Decision Dec. 22, 1986), in which OFCCP obtained data including the initial salaries and promotions of employees who were not included in the class eight years prior to the review period.

Oracle’s asserted concerns about producing the private information of employees is not a basis for refusing to produce highly relevant information. As you know, the Court has entered a Temporary Protective Order that will remain in place until it enters a new Protective Order, which the parties agree will protect the privacy interests of former and current Oracle employees. Moreover, as OFCCP has explained, it plans to use the data in a statistical analysis, based on the aggregated data.

Although Oracle has already produced historical data for employees in the three job functions at issue going back to 1985, OFCCP has offered a compromise: to limit the data production for those employees who left Oracle prior to 2013 to the time frame of 2002-2013. We ask that Oracle reconsider this compromise. Otherwise, OFCCP will consider seeking to compel historical data for the period 1985 to 2013 – the same time frame for which Oracle produced data for Oracle’s employees employed since 2013.

Supplementation of Previously-Produced Data Files

“Available Updated Data, If Any”

Despite OFCCP’s request that Oracle identify any files that Oracle does not intend to supplement, Oracle does not do so. Instead, your letter vaguely states that your letter “referenced ‘readily available updated data, if any’ *primarily* because certain of the data files previously produced were pulled from legacy systems no longer in use, such that additional entries post-dating Oracle’s earlier production would not exist.” (emphasis added). Please confirm that Oracle will be supplementing all the data files it previously produced, except (1) those OFCCP specifically stated could be excluded from supplementation; and (2) those files that OFCCP did not exclude, but which contain no data after January 2017. If there are data files Oracle does not intend to supplement (and does not fall into one of the exclusions above), please identify them.

Oracle did not respond to OFCCP’s request that if there are new sources of data, please identify them, so that we can adequately meet and confer. As OFCCP noted, if Oracle has new databases storing the data that Oracle previously produced, Oracle will need to supplement its data production from such databases.

Supplementation of Hiring Data

OFCCP does not agree that Oracle should rewrite its scripts to exclude hiring data previously produced, which will result in the hiring data being produced in a different format. This will make it more burdensome to understand, combine with the other data, and work with. It will also permits Oracle to unilaterally decide what data is relevant, particularly since Oracle has not identified what it intends to exclude from its supplementation.

Moreover, the hiring data for employees hired into Oracle's PT1 job group after 2013 is highly relevant to the compensation class, since over 99% of the employees in the PT1 job group were also employees in the Product Development, Support, and Information Technology job functions. Contrary to Oracle's suggestion, this fact does not undermine OFCCP's request for hiring data for these class members. While Oracle is already producing compensation data for these individuals, Oracle limited its production of data from the hiring process for these individuals, even though such data is also relevant to the compensation claims.

Educational Data and Experience of Oracle Employees in Compensation Class

We appreciate the further explanation in your letter about the educational data that Oracle will be producing. However, your response remains vague. It states that Oracle will supplement information on education "that is available in Oracle's centralized HRIS data systems." Please identify the systems Oracle intends to include in this search, and those it intends to exclude.

Earlier today, I requested a telephonic meet and confer with you on Friday to further discuss Oracle's data production. We look forward to talking to you further about these issues on Friday.

Sincerely,

Laura C. Bremer



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March 29, 2019

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Re: OFCCP's Requests for Supplemental Data Production

Dear Laura:

I write in response to your data-related emails dated March 25, 2019, March 26, 2019, and March 27, 2019, which followed our meet and confer call on the afternoon of March 22, 2019 regarding your letter dated March 20, 2019. The first issue below—the scope of OFCCP's revised hiring/recruiting claims and the supplemental data production that is appropriate in light of that scope—is one we addressed on our March 22 call but you omitted from your emails.

Scope of Supplementation of Group II (Hiring) Data Files

On our March 22 call, you expressed concern that Oracle might not be able to correctly identify the population relevant to OFCCP's revised and narrowed recruiting and hiring claims (*i.e.*, individuals hired into Oracle through the "college recruiting" program) for purposes of providing additional data. I noted that you could address that concern by explaining how OFCCP is defining that population for purposes of the claims in the operative Second Amended Complaint. *See, e.g.*, Second Am. Compl. (Mar. 8, 2019) at ¶¶ 33 (alleging that "Oracle hired approximately 125 recent college or university graduates per year at its headquarters for low-level Product Development positions in Oracle's [PT1] job group"), 37-38 (alleging "statistically significant" "under hiring of White and Hispanic applicants" and providing calculations of 495 "total hires").

Oracle has already served OFCCP with discovery requests directed at the facts supporting these allegations, including all "statistical data, analyses, methodologies, and computations." Oracle's Interrogatories, Set Two, Nos. 47-48 (Mar. 15, 2019). Rather than waiting until the full 30 days have run to respond, I reiterate our request that you identify the definition of "recent college or university graduates" you are using, and the specific data fields you used to identify them, for purposes of the claims OFCCP makes in the operative complaint. Earlier provision of that



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information should enable the parties to come to agreement as to the relevant population for supplementation of the Group II (Hiring) Data Files. Please provide this information at your earliest opportunity.

Compa-Ratios From International Affiliates of Oracle America, Inc.

In our March 22 call, we spent significant time discussing OFCCP's request for "each employee's last compa-ratio at an Oracle affiliate before transfer to the Support, Product Development, and Info Tech Job Functions at HQCA." Feb. 15, 2019 L. Bremer Ltr. to E. Connell entitled "Data Requests." See also Mar. 6, 2019 L. Bremer Ltr. to E. Connell entitled "Data Requests" (reiterating same request verbatim). In particular, we discussed trying to reach agreement as to specific data fields that we could agree to use to identify the relevant population and requested information. On our call, I proposed trying to determine if Oracle America, Inc. can pull information about the last compa-ratio at an international affiliate for each of the 341 employees designated "International Transfer" in ORACLE_HQCA_0000070747 (HQCA_IREC_DATA.xlsx), tab "OFFER_CANDIDATES," column AR ("HIRE_TYPE"). You indicated that you would take that proposal under advisement and reply indicating any additional fields/values that you contended would be useful in identifying international transfers.

Instead of addressing that issue, your March 25 e-mail proposed that Oracle pull in not only the last pre-Oracle America, Inc. compa-ratio for each of these 341 individuals (plus any other individuals designated "International Transfer" in the supplement iRecruitment data pull for the compensation class), but also additional information never before requested (including each individual's final job code, system job title, job function, job specialty, global career, level, salary, salary range minimum, salary range maximum, and salary range midpoint). March 25, 2019 e-mail, bullet #1. You further requested – again for the first time – that Oracle pull in last compa-ratio as well as complete salary history for all "employees employed prior to 2013" who "transferred from an Oracle affiliate," though you proposed no way to identify such persons. March 25, 2019 e-mail, bullet #2.

With respect to bullet #2 and as discussed in more detail *infra*, OFCCP's request for data on individuals who never worked at HQCA at any point from the start of the audit forward is unreasonable and unduly burdensome; to the extent your March 25 email proposes pulling historical compa-ratio information or other historical data for those people, Oracle does not agree the request is appropriate.

As for members of the compensation population, properly defined and supplemented, and without waiving our previous objection to producing data not within Oracle America, Inc.'s possession, custody and control, we are in the process of requesting and, if feasible, providing



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information related to the last compa-ratio at an Oracle affiliate for those designated “International Transfers” (as defined above). Compa-ratio is a calculation based on other information—not an independent, separate, and static value—and we are working to determine what information that we can collect and provide would be sufficient to do the needed calculation for individuals in the various international locations in which those designated “International Transfers” previously worked. Though you did not previously request them, we also do not object to requesting and, if feasible, providing the final job code, system job title, salary, salary range minimum, salary range maximum, and salary range midpoint at the last pre-transfer Oracle affiliate for these individuals. (As you know, each job code from the Global Job Table is associated with only one job function, job specialty, and global career level, such that separately pulling and providing that information is duplicative of information OFCCP already has.) We are working with our client to determine the feasibility of obtaining accurate information for these data fields for the “International Transfers” and anticipate responding further next week.

For avoidance of doubt, Oracle will provide this separately-requested information (if feasible) in a separate data pull file, with appropriate identifiers (such as name and PARTY_ID) to enable OFCCP to marry this new data pull with prior data pulls as it deems appropriate.

“Available Updated Data, If Any”

I agreed that Oracle will work to provide updates all of the data files you requested with the two limitations you indicated, and that if any of the fields previously produced have been moved to different centralized HRIS data systems we will pull and produce those fields from those other systems as well.

OFCCP’s Request for Data for Individuals Outside the Populations At Issue

Your March 27 e-mail proposed what you deem a “compromise”: that Oracle produce a dozen different data files containing information for every employee who worked at HQCA prior to January 1, 2013 in any of the three job functions that frame OFCCP’s operative complaint; presumably, based on the size of the population actually at issue in the case, this would amount to collecting, QCing, and producing data for thousands (if not tens of thousands) of additional employees.

Oracle does not agree to produce compensation or assignment history data for employees who have never worked at HQCA after January 1, 2013, and are thus undisputedly outside of the populations at issue in either the underlying audit or this litigation. We have reviewed the legal authority you previously provided and, as discussed on our March 22 call, do not believe it



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March 29, 2019
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supports the conclusion that OFCCP is entitled to demand, or Oracle is obligated to produce, eight years of data on individuals entirely outside of the reach of OFCCP's claims given the facts of this case. With the supplements being prepared, OFCCP will have complete compensation history data for more than *six years*' worth of Oracle HQCA employees to analyze in whatever statistical model(s) it deems appropriate. A request for any more is burdensome, overbroad, and not proportionate to the needs of the case, and impinges unreasonably on the privacy of third-party non-litigants. For avoidance of doubt, Oracle does not agree to any limitations on its ability to critique whatever statistical analysis(es) OFCCP may seek to introduce as proof of its claims, sight unseen – nor is it reasonable to ask Oracle to do so.

Educational & Experience Data for Oracle Employees in Compensation Population

As I previously indicated, Oracle has produced, and will supplement, information on education and prior experience that is available in Oracle's centralized HRIS data systems for both the original compensation population and the supplemental compensation population through January 18, 2019. Oracle has also produced, and will continue to produce, resumes stored in those systems for the populations at issue, which generally also contain educational and experience information.

Very truly yours,

A handwritten signature in black ink, appearing to read "Kathryn G. Mantoan".

Kathryn G. Mantoan



April 3, 2019

VIA ELECTRONIC MAIL ONLY

Kathryn G. Mantoan
ORRICK HERRINGTON & SUTCLIFFE LLP
405 Howard Street
San Francisco, CA 94105
kmantoan@orrick.com

Re: *OFCCP v. Oracle America, Inc.*, Case No. 2017-OFC-00006,
Data Requests

Dear Katie,

This letter furthers our discussion regarding Oracle's responses to OFCCP's data requests, including our telephonic meet and confer on March 22, 2019, my follow up emails to you on March 25, 2019, March 26, 2019, and March 27, 2019, and your letter to me dated March 29, 2019.

Compa-ratios

Your characterization of our communications regarding compa-ratios is incorrect. In prior communications and RFPs, OFCCP requested that Oracle provide compa-ratio data for international transfers, without limiting the request to specific prior spreadsheets that Oracle had produced. During our call, you put me on the spot, and attempted to limit the request to compa-ratios for the 341 persons identified as "International Transfers" in the HQCA_IREC_DATA.xlsx. I agreed to get back to you, to tell you exactly which data fields OFCCP requested Oracle update. I did so in my email dated March 25, 2019. This email both responded to your question regarding updating the HQCA_IREC_DATA.xlsx for international transfers and specified the additional spreadsheet we were requesting Oracle to update, pursuant to our discussion. Your characterization of my specifying a spreadsheet to update as not "addressing the issue" and a request "for the first time," are simply inaccurate. Rather, I sought to detail the more general requests we had previously made, as you explicitly requested that I do. In any event, I understand that Oracle does not object to producing the data requested in item #1 of my March 25, 2019 email, and is simply determining whether it is feasible to produce this data. Given Oracle guidance that managers rely on the data OFCCP has requested for international transfers in setting their pay, we expect that Oracle has access to this data and will be able to produce this information. We look forward to your confirmation at the end of this week.

Oracle refused, however, to produce historical compa-ratio data for international transfers employed in the three job functions at issue, as requested in item #2 of my March 25, 2019 email.

Compensation History Data

During our March 22, 2019 meet and confer, we discussed OFCCP's request for the historical data for the Oracle employees in the three job functions in which OFCCP alleges compensation discrimination. While Oracle provided historical data, going back to 1985, for employees in the 3 job groups employed at HQCA, it excluded data of the comparator employees in those groups during the same time frame. OFCCP seeks that data so its expert can conduct a complete compensation analysis of Oracle's employees, and particularly how compensation changed over time and the impact of starting compensation on later compensation. You indicated Oracle would consider producing this information.

In an attempt to reach a compromise on this issue, OFCCP narrowed the time frame for the historical data it sought, both in my letters prior to the meet and confer, and then further during my March 27, 2019 email. In addition to narrowing the time frame for the historic data of comparators to 2005 through 2012, OFCCP also narrowed the data files for which it sought comparator information. While Oracle produced approximately 50 spreadsheets and data files containing data for the compensation class, OFCCP seeks that only 11 data of these spreadsheets be updated to include historic information of comparators. Nevertheless, Oracle refused to produce the requested data.

Supplementation of Hiring Data

While Oracle generally agreed to supplement the data that it produced in 2017, Oracle unilaterally limited its supplementation of the hiring data it is producing to data for college hires. Despite OFCCP's repeated requests that Oracle identify the data that it plans to exclude when it supplements its production of hiring data, Oracle declines to do so. Instead, it asks OFCCP to define the college hires in Oracle's data, so that Oracle can then limit the data to those people. OFCCP again objects to Oracle's refusal to supplement all hiring data.

OFCCP also objects to Oracle attempting to place the burden on OFCCP of determining the college hires in Oracle's data. OFCCP assumes that Oracle will produce all data it considers to include recruits, applicants, and/or hires through its college recruiting program, including data from iRecruitment, Taleo, Resumate, and Workflow. Presumably, Oracle will provide supplemental data from its college recruiting database(s), including all the data fields and types of data previously produced from Resumate. For iRecruitment, we presume that Oracle will provide supplemental information for all the people listed as a Hire_Type with a CR letter, and having a "Channel" of "college" (as explained in Oracle's December 8, 2017 letter regarding Oracle data). From your letter dated July 13, 2018, it appears that Hire_Type of Student/Intern to Regular would also refer to college hires. Oracle's December 8, 2017 and June 29, 2018 letters also state that starting in May 2015, Oracle used Taleo to maintain information about college recruiting hires, and to process college offers for college recruits. OFCCP expects Oracle to produce all the data it previously produced from all three systems regarding college recruits, applicants and/or hires, as well as any other system that Oracle has used since 2016 that

contains information regarding recruits, applicants, and/or hires through Oracle's college recruiting program.

Sincerely,

A handwritten signature in black ink, appearing to read "Laura C. Bremer", with a long horizontal flourish extending to the right.

Laura C. Bremer

From: [Bremer, Laura - SOL](#)
To: [Mantoan, Kathryn G.](#); [Siniscalco, Gary R.](#); [Connell, Erin M.](#); [Kaddah, Jacqueline D.](#); [James, Jessica R. L.](#)
Cc: [Miller, Jeremiah - SOL](#); [Garcia, Norman - SOL](#)
Subject: Oracle
Date: Wednesday, March 27, 2019 4:39:00 PM

Katie,

We look forward to hearing your response to our proposals for compa-ratio data for international transfers, and compensation history data.

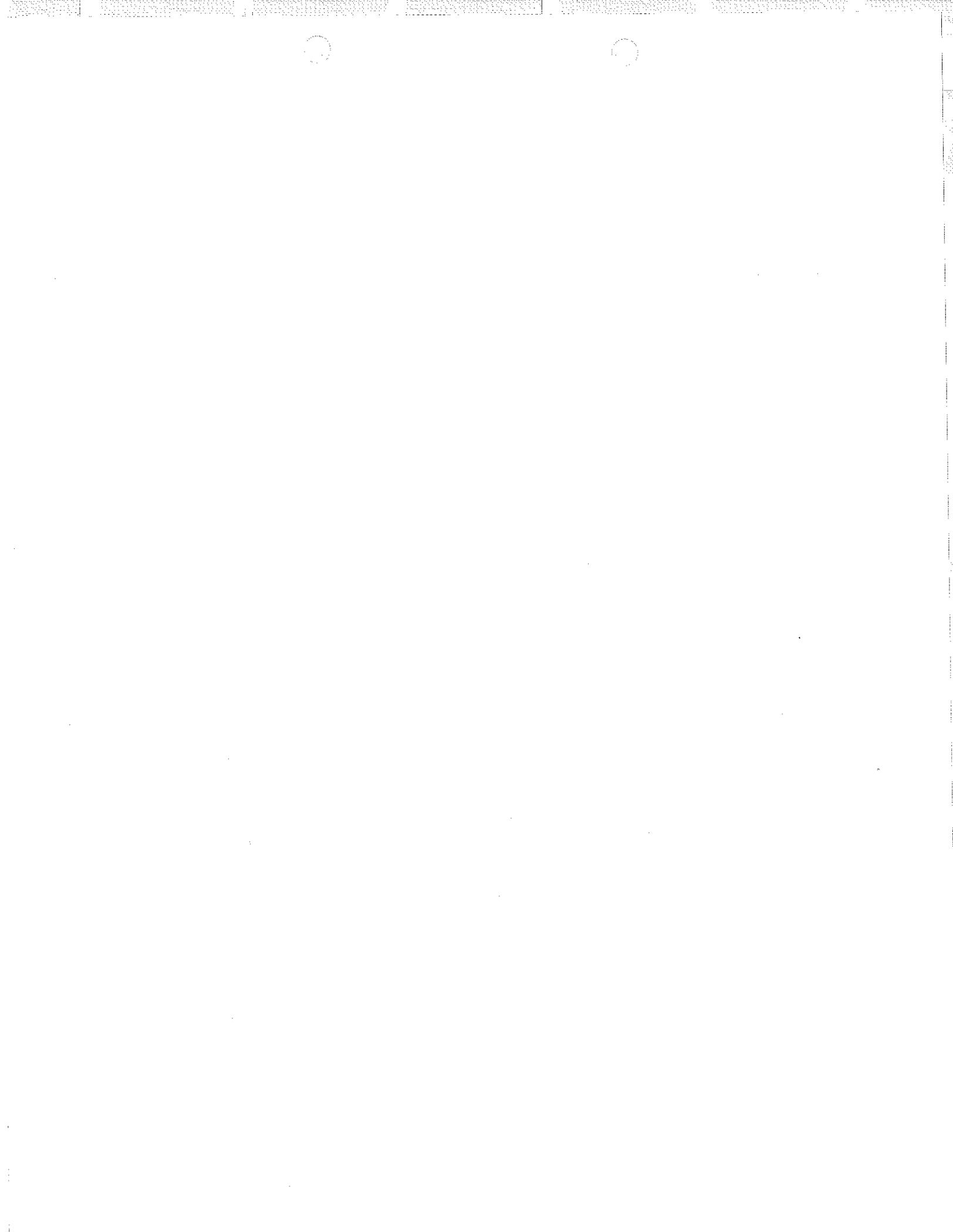
For the compensation history data, OFCCP would be willing to further limit its request to provide historical data for the Oracle employees at HQCA in the 3 job functions. Rather than seeking historical data be included in all of the compensation files for which Oracle is providing supplementation, OFCCP proposes that Oracle update the following files with historic information of employees who left HQCA prior to 2013:

Emp_Personal_Experience_Qualification_Assign_Details.xlsx
Merged Assignment History, Medicare and Sal Admin.xlsx
gsi_cwb_detail.xlsx
gsi_comp_history.xlsx
AllEarnings.xlsx
AllEarnings2.xlsx
Appraisal_Audit_All_Data.xlsx
hcm_wfc_detail.xlsx
HQCA_IREC_DATA.xlsx
ORACLE_HQCA_0000364082-182
ORACLE_HQCA_0000360321

Any files that Oracle produces that include additional data regarding education and experience.

OFCCP is also willing to further limit the time period for which it seeks information to 8 years, from 2005 through 2012. I look forward to hearing from you this week as to whether Oracle will agree to these compromise proposals.

Laura C. Bremer
Senior Trial Attorney
Office of the Solicitor
U.S. Department of Labor
90 7th Street, Suite 3-700
San Francisco, California 94103
(415) 625-7757





2. “RELEVANT TIME PERIOD” means January 1, 2013, to the January 18, 2019 unless otherwise stated.

3. “ANALYSES” means any AND all draft AND final narratives, summaries, chronologies, determination memorandums, statistical summaries, charts, matrices, spreadsheets, audits, evaluations, studies, methodologies, models, actual computations, AND regression AND other statistical analysis.

4. “AND” AND “OR” shall be construed conjunctively OR disjunctively as necessary to make the request inclusive rather than exclusive.

5. “APPLICANT” means any person who YOU received expressions of interest, solicited, recruited, communicated with, screened, interviewed, evaluated, determined starting salary AND other COMPENSATION for, OR extended offers to, persons who expressed interest in a job at Oracle.

6. “ASSIGNED” means responsible, designated, appointed, worked on, performed work.

7. “BSN” means Bates stamp number.

8. “COLLEGE RECRUIT” means any person who expresses interest OR applies to YOU through YOUR college recruiting program (including undergraduate students, graduate students, AND recent graduates) for positions in the Professional Technical I, Individual Contributor Job Group, including product development positions.

9. “COMMUNICATIONS” means all transactions OR transfers of information of any kind, whether orally, in writing, OR in any other manner, at any time OR place, under any circumstances whatsoever.

10. “COMPA-RATIO” means what Oracle identified at BSN

ORACLE_HQCA_42098 slide 20 as “An employee’s compa-ratio is the ratio of their full time equivalent base salary to the midpoint of their salary range. To calculate a compa-ratio simply divide the employee’s salary by the midpoint.”

11. “COMPENSATION” means any payments made to, OR on behalf of, YOUR employee as remuneration for employment, including but not limited to salary, wages, money for relocation, overtime pay, shift differentials, commissions, bonuses, vacation AND holiday pay, retirement AND other benefits, stock options AND awards, AND profit sharing.

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

13. “GLOBAL CAREER LEVEL” means what Oracle identified at BSN ORACLE_HQCA_42101 slide 57 as “The Global Career Level indicates broad steps in job families with levels increasing based on the skill, knowledge, responsibility and performance expectations and is useful when comparing roles across organizations and

countries. The Global Career Level structure has 2 paths to include Management and Non-Management which as referred to as Individual Contributors (or IC). There is no direct mapping between the management and non-management career level structures.”

14. “HIRING” OR “HIRED” OR “HIRE” means to establish an employer to employee relationship, to employ someone.

15. “JOB TITLE” means what Oracle identified at BSN ORACLE_HQCA_42101 slide 57 as “The Job Title or system title that describes the job.” Emphasis in original. Examples of JOB TITLES can be found at column G in the spreadsheet that Oracle produced at BSN ORACLE_HQCA_3616. JOB TITLE does not include the discretionary JOB TITLES that are assigned to YOUR employees.

16. “OFCCP” means the Office of Federal Contract Compliance Programs, United States Department of Labor.

17. “PAY DECISION” means any choice Oracle made about a person’s COMPENSATION, including whether to give OR not to give a particular type of COMPENSATION (e.g., starting pay, bonus, stock options), the amount of COMPENSATION to give, OR to change OR not to change the amount of COMPENSATION of a person.

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

RELEVANT TIME PERIOD.

19. "PT1 JOB GROUP" means Professional Technical I, Individual Contributor Job Group.

20. "RELATED TO" means constituting, memorializing, evidencing, containing, showing, supporting, contradicting, summarizing, pertaining to, OR referring to, whether directly OR indirectly, the subject of the particular request.

21. "SALARY GRADE" means the alpha numeric designation (including, but not limited to: E 14, E 13, E 12 . . . E 04; N14, N 13, N12) that Oracle assigns to a JOB CODE as Oracle identified at BSN ORACLE_HQCA_56234 slide 16 that stated: "Each job code in the global table is assigned to a salary grade that refers to a salary range."

22. "SALARY RANGE" means a range of pay that Oracle assigns to a SALARY GRADE."

23. "SPECIALTY AREA" means what Oracle identified at BSN ORACLE_HQCA_42101 slide 57 as "a subset of the function and is intended to further identify the work performed."

INSTRUCTIONS

1. Unless otherwise stated, these requests RELATE TO Oracle's headquarters located at Redwood Shores, California.

2. In responding to these requests, furnish all information that is available to YOU. If, after exercising due diligence to secure the DOCUMENTS, YOU cannot produce the requested DOCUMENTS in full, respond to the extent possible, specifying YOUR inability to produce the remainder. If YOU object to any request, state with

specificity the basis for the objection, decline to respond to only that portion of the request deemed objectionable, AND respond to the balance of the request.

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

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

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

4. These requests are intended to cover all DOCUMENTS in existence OR in effect at any time during the RELEVANT TIME PERIOD. If any responsive DOCUMENT has changed over the RELEVANT TIME PERIOD, produce all responsive DOCUMENTS, regardless of whether they reflect YOUR POLICIES, PRACTICES OR PROCEDURES that are no longer in effect.

5. With respect to the application of privileges: If YOU decline to produce any DOCUMENT OR to otherwise provide information on the basis of a claim of

privilege, so state in response to the DOCUMENT production request. Any part of a DOCUMENT for which YOU do not claim a privilege must be produced. Furnish a complete log of any DOCUMENTS OR portions of DOCUMENTS withheld on the basis of privilege, describing each such DOCUMENT OR portion thereof in a manner that will enable OFCCP to assess the applicability of the privilege being asserted. This includes, without limitation, setting forth for each such DOCUMENT the dates the DOCUMENT was prepared AND transmitted, to whom AND from whom the DOCUMENT was transmitted, including copies thereof, the length of the DOCUMENT, the privilege(s) claimed, AND the factual basis for the claim of each privilege.

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

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

8. All DOCUMENT productions made in response to these requests must comply with OFCCP's technical specifications previously provided.

9. If DOCUMENTS have been produced in response to a previous request(s), they do not have to be reproduced in response to a request(s) below.

However, please provide the BSN of the DOCUMENTS and the number(s) of the request(s) they were responsive to.

REQUESTS FOR PRODUCTION OF DOCUMENTS

184. Produce all of YOUR POLICIES, PRACTICES, OR PROCEDURES RELATING TO YOU making a decision to pay OR not pay visa fees AND immigration costs, to include legal costs, for YOUR employees in the Information Technology, Product Development AND Support Job Functions OR COLLEGE RECRUITS that YOU HIRED for the PT1 JOB GROUP.

185. Produce all DOCUMENTS in which YOU requested and received information RELATED TO race, gender OR the eligibility to work in the United States from YOUR employees in the Information Technology, Product Development AND Support Job Functions OR COLLEGE RECRUITS that YOU HIRED for the PT1 JOB GROUP, including, but not limited to, YOUR "On Campus Evaluation Form" at BSN ORACLE_HQCA_22721, YOUR "Employee Eligibility Questionnaire" at BSN ORACLE_HQCA_22042 that is part of the "New Employee Offer Packet," guidelines, scripts.

186. For COLLEGE RECRUITS during the RELEVANT TIME PERIOD, produce all DOCUMENTS (drafts, final versions, completed documents) that were included in YOUR "Candidate Folder" referenced at BSN ORACLE_HQCA_56909-10 for each COLLEGE RECRUIT HIRED into the PT1 JOB GROUP.

187. Produce all of YOUR POLICIES, PRACTICES, OR PROCEDURES in effect during the RELEVANT TIME PERIOD RELATED TO how YOU inform employees in the

Information Technology, Product Development AND Support Job Functions about any PAY DECISIONS that YOU made for them.

188. Produce all DOCUMENTS showing YOUR POLICIES, PRACTICES, OR PROCEDURES in effect during the RELEVANT TIME PERIOD RELATED TO when YOU decide whether to make a PAY DECISION OR a promotion decision for any employee working in the Information Technology, Product Development AND Support Job Functions.

189. Produce all DOCUMENTS showing YOUR POLICIES, PRACTICES, OR PROCEDURES in effect during the RELEVANT TIME PERIOD RELATED TO YOUR employees working in the Information Technology, Product Development AND Support Job Functions being able to discuss OR not discuss information with their co-workers about PAY DECISIONS.

190. Produce all DOCUMENTS that identify that YOU reviewed a person's prior salary when making a PAY DECISION during the RELEVANT TIME PERIOD for a person YOU extended a job offer to work in the Information Technology, Product Development AND Support Job Functions.

191. Produce all DOCUMENTS showing YOUR POLICIES, PRACTICES, OR PROCEDURES in effect during the RELEVANT TIME PERIOD RELATED TO taking into account a person's prior salary when making a PAY DECISION during the RELEVANT TIME PERIOD for a person YOU extended a job offer to work in the Information Technology, Product Development AND Support Job Functions.

192. Produce all DOCUMENTS identifying whether a person's base pay changed when the person transferred to an organization within the Information Technology, Product Development AND Support Job Functions during the RELEVANT TIME PERIOD. This request includes transfers within, between AND from outside these three Job Functions.

193. Produce all DOCUMENTS RELATED TO all factors YOU considered in making PAY DECISIONS for HIRES to the Information Technology, Product Development AND Support Job Functions during the RELEVANT TIME PERIOD.

194. Produce all DOCUMENTS RELATED TO all factors YOU considered in making PAY DECISIONS for each COLLEGE RECRUIT HIRED to the PT1 JOB GROUP during the RELEVANT TIME PERIOD.

195. Produce all DOCUMENTS RELATED TO all factors YOU considered in making PAY DECISIONS for YOUR employees in the Information Technology, Product Development AND Support Job Functions during the RELEVANT TIME PERIOD.

196. For all of YOUR employees who worked in the Product Development, Information Technology, AND Support Job Functions during the RELEVANT TIME PERIOD, produce all of YOUR POLICIES, PRACTICES, OR PROCEDURES RELATED TO COMPA-RATIO for employees who either transferred into these three Job Functions from an Oracle affiliated company (e.g., Oracle India Pvt. Ltd.) OR who YOU acquired to work in these three Job Functions when Oracle acquired another company.

197. Produce all DOCUMENTS regarding YOUR POLICIES, PRACTICES, OR PROCEDURES RELATED TO bonus OR stock determinations (e.g., whether to award, how much, when to provide, who to provide them) to YOUR employees in the Product Development, Information Technology, AND Support Job Functions during the RELEVANT TIME PERIOD.

198. Produce all DOCUMENTS regarding YOUR POLICIES, PRACTICES, OR PROCEDURES RELATED to YOUR employee transferring to, within OR between the Product Development, Information Technology, AND Support Job Functions, during the RELEVANT TIME PERIOD. This request includes YOUR POLICIES, PRACTICES, OR PROCEDURES RELATED TO process for requesting transfers; evaluation of transfer requests; criteria used to evaluate transfer requests; approval of transfer requests; AND effects of transfer requests on budgets, headcount, performance evaluations, PAY DECISIONS. This request includes transfers because of a change in organization, products, supervisors, Job Specialty, JOB TITLE, AND Job Function.

199. Produce all of YOUR POLICIES, PRACTICES, OR PROCEDURES for YOUR “Talent Development Program,” “Talent Review,” AND “Talent Review Audit” RELATED TO YOUR employees in the Product Development, Information Technology, AND Support Job Functions, during the RELEVANT TIME PERIOD. For a reference to “Talent Review Audit” see the file titled “Talent_Review_Audit” in the folder titled “I” in YOUR Data production.

200. Produce All YOUR POLICIES, PRACTICES, OR PROCEDURES for communicating to YOUR employees in the Product Development, Information Technology, Support Job Functions during the RELEVANT TIME PERIOD the following information: their

JOB TITLE in the GLOBAL JOB TABLE, their SALARY GRADE, the SALARY RANGE of their SALARY GRADE, their GLOBAL CAREER LEVEL, their COMPA-RATIO.

201. Produce all DOCUMENTS RELATED TO YOUR employees in the Product Development, Information Technology, AND Support Job Functions during the RELEVANT TIME PERIOD requesting information about PAY DECISIONS (e.g., raises, bonuses, base pay); their GLOBAL CAREER LEVEL, SALARY GRADE, SALARY RANGE, AND COMPA-RATIO. This request includes documents RELATED TO the requests these employees made AND the responses that YOU gave them in response to their requests.

202. Produce all versions of YOUR Affirmative Action Plan's "Job Descriptions" that were in effect during the RELEVANT TIME PERIOD.

203. Produce all DOCUMENTS RELATED TO YOU sponsoring a person for a visa that was in effect during the RELEVANT TIME PERIOD for YOUR employee in the Product Development, Information Technology, AND Support Job Functions OR the PT1 JOB GROUP.

204. For the fields in the following file names that YOU produced data for during the RELEVANT TIME PERIOD, produce this data in the same configuration as organized in these file names for the January 1, 2002, to December 31, 2012, time period for YOUR employees in the Product Development, Information Technology, AND Support Job Functions during this 2002 to 2012 time period: Emp_Personal_Experience_Qualification_Assign_Details.xlsx, Merged Assignment History, Medicare and Sal Admin.xlsx, gsi_cwb_detail.xlsx, gsi_comp_history.xlsx, AllEarnings.xlsx, AllEarnings2.xlsx, Appraisal_Audit_All_Data.xlsx, and hcm_wfc_detail.xlsx., HQCA_IREC_DATA.xlsx.

205. For the fields in the files that YOU produced at ORACLE_HQCA_364082-182 during the RELEVANT TIME PERIOD, produce this data in the same configuration as organized in these files for the January 1, 2002, to December 31, 2012, time period for YOUR employees in the Product Development, Information Technology, AND Support Job Functions during this 2002 to 2012 time period

206. Produce all DOCUMENTS, including, but not limited to e-mails AND their attachments that YOUR employees sent to oracle-offers_us@oracle.com during the RELEVANT TIME PERIOD RELATED TO COLLEGE RECRUITS in the PT1 JOB GROUP.

DATED: March 29, 2019

Respectfully submitted,

KATE O'SCANNLAIN
Solicitor of Labor
JANET M. HEROLD
Regional Solicitor
JEREMIAH MILLER
Counsel for Civil Rights
LAURA C. BREMER
Senior Trial Attorney
NORMAN GARCIA
Senior Trial Attorney

BY: /s/Charles Song
CHARLES SONG
Senior Trial Attorney

U.S. Department of Labor
Office of the Solicitor
350 S. Figueroa St., Suite 370
Los Angeles, CA 90071
(213) 894-5365
Attorneys for Plaintiff OFCCP

CERTIFICATE OF SERVICE

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

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

Connell, Erin M.: econnell@orrick.com

Kaddah, Jacqueline D.: jkaddah@orrick.com

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

Siniscalco, Gary: grsiniscalco@orrick.com

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

Executed: March 29, 2019

/s/Charles Song

Charles Song
U.S. Department of Labor