



August 7, 2017

Via E-Mail

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Re: OFCCP v. Oracle America, Inc. Redwood Shores, California (OALJ
Case No. 2017-OFC-00006)

Dear Mr. Pilotin:

I write in response to your letter on Friday (August 4, 2017), as well as to memorialize the discussion from our meet and confer call earlier today (August 7, 2017).

I. Employee Contact Information

We agree that the parties are at impasse on this issue and will need to raise it with Judge Larsen. As I noted on our call today, however, your letter does not accurately reflect Oracle's position as discussed on Friday. Although I did ask if OFCCP would be willing to consider an attorney's eyes only ("AEO") provision in the protective order, I did not affirmatively state Oracle was insisting upon it in addition to a *Belaire* notice. My understanding from our discussion is that an AEO provision is not something OFCCP is willing to consider. Additionally, I explained that in cases where courts do not require a *Belaire* process, there is usually an AEO provision in place. I also explained that courts frequently require a *Belaire* process where emails and phone numbers are involved, and I asked if OFCCP would agree to limit its request to mailing addresses only. My understanding from the call is that OFCCP is not willing to limit its request in this way.

II. RFP No. 67: Internal Complaints

In your letter dated August 4, 2017, you acknowledged Oracle's proposal regarding this request and requested that Oracle add documents regarding "any verbal complaints made to the HR managers identified in Oracle's proposal." After reviewing your request, we agree to modify our prior proposal from my letter dated August 3, 2017, to include a reasonably diligent search for and production of documents reflecting such verbal complaints. This is, of course, subject to those documents being "relevant" in terms of the scope proposed in my letter dated August 3, 2017, and to which you agreed on last Friday's call.



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III. RFP No. 70: Government Contracts

For RFP No. 70, you agreed on Friday's call to our proposal from August 3, 2017 whereby Oracle will stipulate that it has been a covered federal contractor for over 20 years and the total amount of its government contracts has exceeded \$100 million each year since 2013.

IV. Review and Production of Email in Response to Certain Requests

As we discussed on today's call, Oracle acknowledges that any agreements reflected below are made without prejudice to OFCCP's ability to review the documents produced by Oracle and make a request for the review and production of additional documents it determines are necessary based on these initial productions. Similarly, Oracle maintains its objections to many of these requests.

A. RFP Nos. 17, 18, and 22 (College Recruiting)

For RFP No. 17, we agree to the proposal in your letter dated August 4, 2017; Oracle will use the domain names for domestic colleges and universities from the College Recruiting Sourcing handbook as initial search terms for its review and production of documents from the period of January 1, 2013 to June 30, 2014.

For RFP No. 18, as we discussed on today's call, given the volume of documents for the custodians implicated by this request, we agree to your proposal that Oracle review and produce responsive, non-privileged documents from a three-month time period (to be chosen by OFCCP) for the relevant custodians without the use of search terms. You stated that you would get back to us shortly with the three-month time period.

For RFP No. 22, as I explained on today's call, Oracle's proposed search terms consist of the names of applicants that appear on the applicant data spreadsheets that were submitted to OFCCP during its initial compliance audit. You agreed to our proposal that Oracle's review will involve the use of these search terms on the relevant custodians for the January 1, 2013 to June 30, 2014 period.

B. RFP Nos. 39, 40 & 42-45 (Experienced Recruiting and Transfer Employees)

For RFP Nos. 42-45, you agreed to Oracle's proposal that it produce documents from the January 1, 2013 to June 30, 2014 time period that have been identified for review through the use of search terms on the emails of relevant custodians. To clarify my letter dated August 3, 2017, the set of documents to be reviewed for these requests will include documents that hit on search terms comprised of the names of experienced recruiting applicants to PT1 positions at HQCA OR the requisition numbers associated with PT1 positions at HQCA during the January 1, 2013 to June 30,



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2014 time period. Documents that hit on either of these sets of search terms will be reviewed and need not be responsive to both.

For Request Nos. 39 and 40, similar to Request No. 18 discussed above, Oracle agrees to review and produce responsive, non-privileged documents from a three-month time period (to be chosen by OFCCP) for the relevant custodians without the use of search terms. You stated that you would get back to us shortly with the three-month time period.

C. RFP Nos. 24 & 25 (Larry Lynn and Chantal Dumont)

For Request No. 24 regarding the emails of Larry Lynn, we agree to the proposal in your letter dated August 4, 2017.

For Request No. 25 regarding the emails of Chantal Dumont, as I explained on our call today, Ms. Dumont's volume of emails from the January 1, 2013 to June 30, 2014 period necessitates either the use of search terms or a smaller sample period than initially proposed in your letter. You said that a three-month review period similar to that discussed for Request Nos. 18, 39, and 40 would be sufficient, and you said you would get back to us on that precise period later today.

D. RFP No. 46 (Joyce Westerdahl)

For Joyce Westerdahl, Oracle is willing to agree to the review and production of her emails from the January 1, 2013 to June 30, 2014 period without the prior use of search terms subject to your modification of RFP No. 46 as outlined in your letter dated August 4, 2017. (I also noted that, to the extent that Ms. Westerdahl has any documents that relate to gender discrimination related to a position in the PT1 job group that falls within the narrow subset of jobs outside the Product Development, Support, or IT lines of business, those documents would not be considered relevant and responsive.)

You stated that you had originally anticipated that Oracle would review Ms. Westerdahl's emails from the January 1, 2013 to January 17, 2017 time period without the use of any search terms; however, as I explained in my letter dated August 3, 2017 and on today's call, this would be unduly burdensome and disproportionate because Ms. Westerdahl has almost 30,000 documents from this time period. Accordingly, you stated you would speak with your team about potentially limiting your request to the January 1, 2013, to June 30, 2014 time period or a three-month sample period, and that you would get back to us shortly. I further note that any agreement by OFCCP to limit Oracle's initial search of Ms. Westerdahl's emails to the January 1, 2013, to June 30, 2014 time period would be without prejudice to OFCCP's ability to later argue that a similar review of her



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emails for the longer time period is appropriate, based on OFCCP's review of the initial set of emails produced.

Very truly yours,

A handwritten signature in blue ink that reads "Erin Connell /jca". The signature is written in a cursive style.

Erin M. Connell