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RECEIVED

JAN 22 2019

Office of Administrative Law Judges
 San Francisco, Ca

**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

**DECLARATION OF LAURA C. BREMER IN SUPPORT OF OFCCP'S MOTION FOR
 LEAVE TO FILE A SECOND AMENDED COMPLAINT**

I, Laura 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 for Leave to File a Second Amended Complaint. I have personal knowledge of the matters set forth in this declaration, and I could and would competently testify thereto if called upon to do so.

2. Attached as Exhibit 1 is a true and correct copy of an Oracle Fact Sheet copied from Oracle's website on January 8, 2019, which claims that Oracle "is the #1 provider of business software," provides "the world's #1 database," and provides its technology to top companies and governments worldwide.

<http://www.oracle.com/us/corporate/oracle-fact-sheet-079219.pdf>

3. Attached as Exhibit 2 is a true and correct copy of a letter from Erin Connell to Marc Pilotin, dated August 7, 2017. On page 2 of the letter, Oracle stipulated "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."

4. OFCCP's Supplemental Objections And Answers To Defendant Oracle America, Inc.'s Interrogatories, Set One (As Amended), response to interrogatory No. 21 includes the following response regarding records Oracle refused to produce during the compliance review: "Oracle failed to produce: applicant and hiring data, such as data regarding name of school attended and prior degrees earned, years of prior work experience and prior salary before being hired by Oracle, compensation data such as the 1/13/13 snapshot, Oracle's pay equity analysis, employee personnel actions, employee contact information, data for the 2012 applicant flow log, internal complaints, external arbitration complaints, documents regarding compensation and hiring, etc."

5. A true and correct copy of the Notice of Violation dated March 11, 2016, that OFCCP sent to Oracle is attached hereto as Exhibit 3.

6. OFCCP served OFCCP's First Set of Requests for the Production of Documents ("RFPs") to Oracle of America, Inc. on February 10, 2017.

7. OFCCP served OFCCP's Second Set of RFPs to Oracle of America, Inc. on February 21, 2017.

8. On March 2, 2017, OFCCP served a notice of a 30(b)(6) deposition seeking testimony about Oracle's systems and databases for maintaining data that OFCCP requested during the compliance review that Oracle did not produce. I met and conferred with Erin Connell on March 15, 2017 by telephone regarding the 30(b)(6) deposition OFCCP had noticed. Oracle was unwilling to agree to depositions until a protective order had been entered and the temporal scope of this matter had been resolved.

9. Oracle filed a motion for protective order, and a motion for summary judgment on April 21, 2017.

10. Oracle continued to object to any discovery outside a narrow 18-month time frame, despite the allegations in the complaint that it discriminated from at least 2013 to the present. On May 2, 2017, OFCCP brought a motion to overrule Oracle's objections to the temporal scope of discovery. Oracle filed a motion for judgment on the pleadings on May 5, 2017. At the time these motions were filed, Oracle still had not produced any documents or witnesses in response to OFCCP's discovery requests.

11. Oracle did not begin producing documents until May 25, 2017.

12. On August 18, 2017, OFCCP filed a motion to compel. While the parties had reached agreements on many requests for documents, as of August 18, 2017, Oracle had only produced approximately 23,000 pages of documents, many of which were emails between OFCCP and Oracle (which OFCCP already had) or duplicates of documents previously produced. It had not produced any data for the hiring or compensation of its employees.

13. On October 11, 2017, Oracle began producing data for all employees at its headquarters in the Product Development, Info Tech, and Support job functions from January 1, 2013 through January 17, 2017, as well as data for college recruits. Oracle produced additional data on October 31, 2017.

14. On October 26, 2017, OFCCP and Oracle notified the ALJ that they were requesting “a stay of the litigation to allow the parties to focus their efforts and resources on resolving this matter through mediation.” An order staying the proceeding was issued on October 30, 2017. Additional orders extended the stay of the case while mediation efforts continued. The parties continued mediation efforts through October 2019.

15. Written discovery is not complete. Oracle has not responded to all requests for documents previously served, or produced all the documents it agreed to produce. For example, Oracle has not produced internal pay equity analyses it conducted pursuant to OFCCP’s regulations, and it has not supplemented its initial data production to cover time periods from January 1, 2017 to the present.

Additionally, OFCCP plans to serve additional discovery requests. Depositions have not yet commenced.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on January 22, 2019 in San Francisco, California.


LAURA C. BREMER

EXHIBIT 1

Create Tomorrow, Today

Emerging technologies are disrupting old paradigms and unleashing new opportunities. Oracle has embedded innovative technologies in every aspect of our cloud, enabling companies to reimagine their businesses, processes, and experiences. And the world's #1 database is now autonomous, allowing enterprises to innovate at the speed of a startup.

Artificial intelligence, blockchain, the Internet of Things, machine learning, and other emerging technologies permeate every aspect of work and life. These technologies help us reimagine what's possible: self-driving cars, personalized medicine, precision agriculture, and smart cities.

Oracle provides essential elements for companies to pioneer innovations and drive new business models. For example, applications based on artificial intelligence (AI) can suggest the next best actions, automate answers, and provide personalized service. Oracle embeds machine learning into several management and security offerings to help monitor, troubleshoot, and predict potential outages and security breaches. We enable automated but personalized interactions across our applications via digital assistants—and we've integrated AI into analytics to help discover hidden patterns.

Oracle helps customers develop roadmaps, migrate to the cloud, and take advantage of emerging technologies from any point: new cloud deployments, on-premises environments, and hybrid implementations. Oracle's approach makes it easy for companies to get started in the cloud and even easier to expand as business grows.

Oracle is the #1 provider of business software, with a broad portfolio of solutions for companies of all sizes.

ORACLE CLOUD: SEAMLESSLY INTEGRATED, FUNDAMENTALLY SECURE

[Oracle Cloud Infrastructure](#) serves as the foundational layer for Oracle Autonomous Database, as well as for Oracle's platform and application services. It is a second-generation cloud infrastructure designed to run any enterprise application and workload securely in the cloud. In a single offering, Oracle Cloud Infrastructure combines the flexibility and cost benefits of a public cloud with the predictability and control of an on-premises environment.

With the introduction of [Oracle Autonomous Database](#), the industry's only self-driving, self-securing, and self-repairing database, Oracle is again revolutionizing how data is managed. This groundbreaking database technology delivers outstanding security with unmatched availability and performance.

Oracle Corporation

- US\$40 billion total GAAP revenue in FY 2018
- 430,000 customers in 175 countries
- 25,000 partners
- 137,000 employees, including:
 - 38,000 developers and engineers
 - 14,000 support and services specialists who speak 29 languages
 - 19,000 implementation consultants
- More than 6.3 million students supported annually in 128 countries
- More than 18,000 patents worldwide
- #19 of 100 most valuable global brands (Interbrand Best Global Brands 2018 Rankings)
- 5 million registered members of the Oracle Developer Community
- 484 independent user communities in 92 countries, representing more than 1 million members

Industry Leadership

- #1 in banking
- #1 in communications
- #1 in engineering and construction
- #1 in financial services
- #1 in healthcare
- #1 in insurance
- #1 in public sector
- #1 in retail
- #1 in utilities

Oracle Cloud Platform serves as the foundation for building, running, integrating, monitoring, and securing applications, as well as for driving new insights. Oracle Cloud Platform provides a complete set of open and standards-based tools that span data management, application development, integration, analytics and big data, management, and security. With Oracle's advanced capabilities, customers can rapidly provision resources and dramatically simplify patching, upgrades, backups, and restoration.

Oracle Cloud Applications—including enterprise resource planning, enterprise performance management, customer experience, and human capital and supply chain management—embed AI capabilities and machine learning to help organizations derive better insights about customers, employees, and processes. AI-enabled applications not only may detect business trends—but also learn from the results and make recommendations that add business value. Decision science drives the outcomes for business leaders without always requiring help from data scientists or IT.

Oracle Cloud Applications are built to support modern digital business processes, fueled by the power of data. This means that applications can be connected seamlessly and intelligently—turning insight into action. With integrated AI and machine learning, Oracle's cloud applications can deliver more immediate business impact.

Oracle also provides **industry-specific applications** for running a customer's core business, on premises or in the cloud, for more than two dozen industries.

OPEN AND INNOVATIVE DEVELOPMENT PLATFORM

Oracle is committed to delivering an open standards-based development platform that supports not only Oracle products, but also open source technologies for blockchain, containers, serverless, AI, machine learning, streaming technologies, and various programming languages. Developers have the option to use their preferred application stack for developing and deploying applications on Oracle Cloud.

PATHWAYS TO INNOVATION

Oracle uniquely offers multiple paths and services to facilitate a customer's move to the cloud. Our cloud strategy is built on the understanding that cloud and on-premises implementations must coexist. This gives customers a path that meets their future needs while allowing them to preserve and upgrade their existing investments. With free trials and our **"bring your own license" and "universal credit pricing" programs**, Oracle makes it easy for organizations to try, buy, and consume cloud services while leveraging existing Oracle investments. And **Oracle Soar**, the world's first automated cloud migration offering, enables customers to save time and resources. As part of our commitment to customer success, Oracle offers world-class consulting, support, and training.

Today, 430,000 customers in 175 countries use Oracle technologies to seize business opportunities and solve real, tangible challenges.

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Integrated Cloud Applications & Platform Services

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Oracle Leadership

- #1 application server
- #1 applications development and deployment
- #1 business analytics
- #1 business software
- #1 database
- #1 database management tools
- #1 database on Linux and UNIX
- #1 database warehouse
- #1 deployment-centric applications platform
- #1 engineered systems and integrated platforms
- #1 enterprise performance management
- #1 human capital management
- #1 identity governance and administration
- #1 lead management and marketing automation
- #1 logistics
- #1 middleware
- #1 project and portfolio management
- #1 supply chain execution
- #1 talent management
- #1 transportation management

Oracle Customers Include

- 10 of the 10 top aerospace and defense companies
- 20 of the 20 top auto companies
- 20 of the 20 top banks
- 9 of the 10 top consumer goods companies
- 9 of the 10 top engineering and construction companies
- 20 of the 20 top governments
- 20 of the 20 top high tech companies
- 20 of the 20 top insurers
- 20 of the 20 top manufacturers
- 20 of the 20 top medical device companies
- 20 of the 20 top oil and gas companies
- 20 of the 20 top pharmaceutical companies
- 20 of the 20 top retailers
- 20 of the 20 top supply chains
- 20 of the 20 top telcos
- 20 of the 20 top universities
- 10 of the 10 top utilities

EXHIBIT 2



August 7, 2017

Via E-Mail

Marc Pilotin
Trial Attorney
Office of Solicitor
90 7th Street, Suite 3700
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

Erin M. Connell

E econnell@orrick.com
D +1 415 773 5969
F +1 415 773 5759

Re: OFCCP v. Oracle America, Inc. Redwood Shores, California (OAL)
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 *Belair* 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 *Belair* process, there is usually an AEO provision in place. I also explained that courts frequently require a *Belair* 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.



Marc Pilotin
August 7, 2017
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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,



Marc Pilouin
August 7, 2017
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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



Marc Pilotin
August 7, 2017
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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 black ink that reads "Erin Connell /jmc". The signature is written in a cursive, flowing style.

Erin M. Connell

EXHIBIT 3

U.S. Department of Labor

Office of Federal Contract Compliance Programs
Greater San Francisco/Bay District Office
80 7th Street, Suite 11-100
San Francisco, CA 94103



March 11, 2016

**VIA CERTIFIED MAIL,
7015 0640 0001 2393 5541
(RETURN RECEIPT REQUESTED)**

Safra A. Catz
Mark Hurd
Chief Executive Officers
ORACLE America, Inc.
500 Oracle Parkway
Redwood Shores, CA 94065

**RE: COMPLIANCE EVALUATION OF ORACLE AMERICA, INC.,
REDWOOD SHORES, CALIFORNIA; OFCCP NO. R00192699**

Dear Ms. Catz and Mr. Hurd:

The United States Department of Labor ("DOL"), Office of Federal Contract Compliance Programs ("OFCCP"), is conducting a compliance evaluation of ORACLE America, Inc. ("ORACLE") in Redwood Shores, California pursuant to 41 Code of Federal Regulations ("C.F.R.") Chapter 60: Executive Order 11246, as amended ("E.O. 11246"); Section 503 of the Rehabilitation Act of 1973, as amended ("Section 503"); and the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended ("VEVRAA").

OFCCP found that ORACLE violated E.O. 11246. Consequently, OFCCP is issuing this Notice of Violations to ORACLE. ORACLE's violations, and the corrective actions required to remedy them, are set forth below.

HIRING DISCRIMINATION (VIOLATION 1)

1. VIOLATION:

During the review period from January 1, 2013 through June 30, 2014, ORACLE discriminated against qualified African American, Hispanic and White (hereinafter "non-Asians") applicants in favor of Asian applicants, particularly Asian Indians, based upon race in its recruiting and hiring practices for Professional Technical 1, Individual Contributor ("PT1") roles, in violation of 41 C.F.R. 60-1.4(a)(1).

Specifically, during the period of January 1, 2013 through June 30, 2014, ORACLE recruited approximately 6800 applicants to PT1 roles. Of those applicants, ORACLE recruited 2% African

Americans, 2.5% Hispanics, 19% Whites and 76% Asian applicants. Of the Asian applicants, Asian Indians were nearly 70% of Asian applicants and over 50% of all applicants in PT1.¹

An analysis of ORACLE's applicant data and appropriate workforce availability statistics² show that ORACLE favored Asian applicants, particularly Asian Indians, in recruiting at a standard deviation as significant as +85. ORACLE disfavored non-Asian applicants in recruiting, particularly African American, Hispanic and White applicants, at standard deviations as significant as -8, -10, and -80, respectively.

Additionally, during the period of January 1, 2013 through June 30, 2014, ORACLE hired approximately 670 applicants into PT1 roles. Of those hires, ORACLE hired 1% African Americans, 2% Hispanics, 14% Whites, and 82% Asian applicants. Of the Asian hires, Asian Indians were nearly 60% of Asian hires and 45% of all hires in PT1.

An analysis of ORACLE's hiring data and appropriate workforce availability statistics³ show that ORACLE favored Asian applicants, particularly Asian Indians, in hiring at a standard deviation as significant as +30. ORACLE disfavored non-Asian applicants in hiring, particularly African American, Hispanic and White applicants, at standard deviations as significant as -4, -3, and -28, respectively.

Evidence gathered during the compliance evaluation demonstrates that ORACLE's discriminatory recruiting and hiring practices skewed the racial composition of the applicant flow data to favor Asians, particularly Asian Indians, and disfavored other racial groups for PT1 roles. In order to further analyze ORACLE's recruitment and hiring practices for PT1 roles, OFCCP made multiple requests to ORACLE for copies of all application materials for all expressions of interest, including but not limited to names of hiring managers, employee referrals, requisition dates, hire dates, and copies of job postings and job requirements. Because ORACLE failed to provide complete and accurate information in response to OFCCP's multiple requests, OFCCP presumes that the information not produced would have been unfavorable to ORACLE.

Based upon the analysis conducted and the evidence gathered during the compliance evaluation, OFCCP finds that ORACLE recruited, selected and hired Asian applicants, particularly Asian Indians, for PT1 roles at a rate significantly greater than their non-Asian counterparts who were equally or more qualified for the roles. ORACLE's recruiting and hiring practices resulted in unlawful discrimination against non-Asian applicants based upon race, particularly African American, Hispanic and White applicants.

¹ Asian Indians make-up less than 1% of the U.S. population. *Asians in the U.S. labor force: profile of a diverse population*, U.S. DOL, Bureau of Labor Statistics, Monthly Labor Review, November 2011, <http://www.bls.gov/opub/mlr/2011/11/art1full.pdf>.

² Availability statistics for the Software Developers, Applications & Systems Software Occupation in the United States is based upon 2006-2010 Census and/or 2013-2014 DOL, Bureau of Labor Statistics' Labor Force Statistics.

³ See footnote 2.

CORRECTIVE ACTION:

ORACLE must agree to revise its personnel practices and procedures to ensure that the qualified non-Asian applicants for the PT1 roles are afforded equal employment opportunity for recruitment and selection. ORACLE must also agree to provide the following "make-whole relief" to the non-Asian applicants.

- a) **Notice:** Send notification to the class members to inform them of their rights and the potential remedies.
- b) **Job Offer:** Make bona-fide job offers on a priority basis at the rate of pay that class members would now be earning had ORACLE hired them on the date of the first opportunity following their application.
- c) **Monetary Settlement:** Provide back pay plus quarterly compounded interest at the IRS underpayment rate for the class members. Back pay will be calculated from the date class members should have been hired to the date the violation is resolved in a signed Conciliation Agreement or a bona fide job offer is made to the respective class members. Provide any and all employment benefits that the class members would have received had it not been for the discrimination described above; and
- d) **Policies and Training:** Develop recruitment and hiring policies that comply with Executive Order 11246, as amended, and its implementing regulations; provide mandatory training on the policies to supervisory, management and recruitment professionals involved in ORACLE's recruitment and selection process; and evaluate performance and compensation of supervisory, management and recruitment professionals based upon compliance with the policies.

COMPENSATION DISCRIMINATION (VIOLATIONS 2-5)

2. VIOLATION:

Beginning no later than January 1, 2013, and continuing thereafter, ORACLE discriminated against female employees in Information Technology, Product Development, and Support roles based upon sex by paying them less than comparable males employed in similar roles, in violation of 41 C.F.R. 60-1.4(a)(1).⁴

During the compliance review, OFCCP reviewed employment policies, practices, and records; interviewed management, human resources, and non-management employees; examined employee complaints; analyzed individual employee compensation data and other evidence; and conducted an onsite inspection of the worksite. Based upon the evidence gathered during the compliance review,

⁴ ORACLE refused to provide OFCCP with complete compensation data for all relevant employees, including contract and contingent employees, for the full review period. ORACLE also did not provide any data demonstrating that its continuing compensation disparities have been remedied. Accordingly, OFCCP presumes such data would be unfavorable to ORACLE.

OFCCP evaluated and analyzed ORACLE's compensation system and, through regression and other analysis, found statistically significant pay disparities based upon sex after controlling for legitimate explanatory factors. The results of OFCCP's regression analyses are attached. (Attachment A).

Based upon the analysis conducted and the evidence gathered during the compliance evaluation, OFCCP finds that ORACLE paid male employees in Information Technology, Product Development, and Support roles at a rate significantly greater than their female counterparts who were equally or more qualified. ORACLE's compensation practices resulted in unlawful discrimination against female employees based upon sex.

CORRECTIVE ACTION:

ORACLE must agree to take steps to ensure that its compensation system is nondiscriminatory to all of its employees, regardless of sex. This applies to all aspects of compensation, including but not limited to, salary at the time of placement into roles, annual salary adjustments and incentive compensation in Information Technology, Product Development, and Support roles. ORACLE agrees to: 1) cease the discriminatory compensation practice(s) resulting in lower pay and adverse impact against females in Information Technology, Product Development, and Support roles; 2) provide make-whole remedies to the class of females to include back pay, interest, and other employment benefits; and 3) provide training to employees involved in setting and increasing compensation to ensure that the violation does not recur.

3. VIOLATION:

Beginning no later than January 1, 2013, and continuing thereafter, ORACLE discriminated against African Americans in Product Development roles based upon race by paying them less than comparable Whites employed in similar roles, in violation of 41 C.F.R. 60-1.4(a)(1).⁵

During the compliance review, OFCCP reviewed employment policies, practices, and records; interviewed management, human resources, and non-management employees; examined employee complaints; analyzed individual employee compensation data and other evidence; and conducted an onsite inspection of the worksite. Based upon the evidence gathered during the compliance review, OFCCP evaluated and analyzed ORACLE's compensation system and, through regression and other analysis, found statistically significant pay disparities based upon race after controlling for legitimate explanatory factors. The results of OFCCP's regression analysis are attached. (Attachment A).

Based upon the analysis conducted and the evidence gathered during the compliance evaluation, OFCCP finds that ORACLE paid White employees in Product Development roles at a rate significantly greater than their African American counterparts who were equally or more qualified. ORACLE's compensation practices resulted in unlawful discrimination against African American employees based upon race.

⁵ See footnote 4.

CORRECTIVE ACTION:

ORACLE must agree to take steps to ensure that its compensation system is nondiscriminatory to all of its employees, regardless of race. This applies to all aspects of compensation, including but not limited to, salary at the time of placement into roles, annual salary adjustments and incentive compensation in Product Development roles. ORACLE agrees to: 1) cease the discriminatory compensation practice(s) resulting in lower pay and adverse impact against African Americans in Product Development roles; 2) provide make-whole remedies to the class of African Americans to include back pay, interest, and other employment benefits; and 3) provide training to employees involved in setting and increasing compensation to ensure that the violation does not recur.

4. VIOLATION:

Beginning no later than January 1, 2013, and continuing thereafter, ORACLE discriminated against Asians in Product Development roles based upon race by paying them less than comparable Whites employed in similar roles, in violation of 41 C.F.R. 60-1.4(a)(1).⁶

During the compliance review, OFCCP reviewed employment policies, practices, and records; interviewed management, human resources, and non-management employees; examined employee complaints; analyzed individual employee compensation data and other evidence; and conducted an onsite inspection of the worksite. Based upon the evidence gathered during the compliance review, OFCCP evaluated and analyzed ORACLE's compensation system and, through regression and other analysis, found statistically significant pay disparities based upon race after controlling for legitimate explanatory factors. The results of OFCCP's regression analysis are attached. (Attachment A).

Based upon the analysis conducted and the evidence gathered during the compliance evaluation, OFCCP finds that ORACLE paid White employees in Product Development roles at a rate significantly greater than their Asian counterparts who were equally or more qualified. ORACLE's compensation practices resulted in unlawful discrimination against Asian employees based upon race.

CORRECTIVE ACTION:

ORACLE must agree to take steps to ensure that its compensation system is nondiscriminatory to all of its employees, regardless of race. This applies to all aspects of compensation, including but not limited to, salary at the time of placement into roles, annual salary adjustments and incentive compensation in Product Development roles. ORACLE agrees to: 1) cease the discriminatory compensation practice(s) resulting in lower pay and adverse impact against Asians in Product Development roles; 2) provide make-whole remedies to the class of Asians to include back pay, interest, and other employment benefits; and 3) provide training to employees involved in setting and increasing compensation to ensure that the violation does not recur.

⁶ See footnote 4.

5. VIOLATION:

Beginning no later than January 1, 2013, and continuing thereafter, ORACLE discriminated against Americans in Product Development and Support roles based upon national origin by paying them less than comparable non-Americans employed in similar roles, in violation of 41 C.F.R. 60-1.4(a)(1).⁷

During the compliance review, OFCCP reviewed employment policies, practices, and records; interviewed management, human resources, and non-management employees; examined employee complaints; analyzed individual employee compensation data and other evidence; evaluated public disclosure files and related wage determination memoranda; and conducted an onsite inspection of the worksite. Based upon the evidence gathered during the compliance review, OFCCP evaluated and analyzed ORACLE's compensation system and, through regression and other analysis, found statistically significant pay disparities based upon national origin after controlling for legitimate explanatory factors. The results of OFCCP's regression analysis are attached. (Attachment A).

Based upon the analysis conducted and the evidence gathered during the compliance evaluation, OFCCP finds that ORACLE paid non-American employees in Product Development and Support roles at a rate significantly greater than their American counterparts who were equally or more qualified. ORACLE's compensation practices resulted in unlawful discrimination against American employees based upon national origin.

CORRECTIVE ACTION:

ORACLE must agree to take steps to ensure that its compensation system is nondiscriminatory to all of its employees, regardless of national origin. This applies to all aspects of compensation, including but not limited to, salary at the time of placement into roles, annual salary adjustments and incentive compensation in Product Development and Support roles. ORACLE agrees to: 1) cease the discriminatory compensation practice(s) resulting in lower pay and adverse impact against Americans in Product Development and Support roles; 2) provide make-whole remedies to the class of Americans to include back pay, interest, and other employment benefits; and 3) provide training to employees involved in setting and increasing compensation to ensure that the violation does not recur.

AFFIRMATIVE ACTION VIOLATIONS (VIOLATIONS 6-8)

6. VIOLATION:

ORACLE failed to perform an in-depth analysis of its total employment processes to determine whether and where impediments to equal employment opportunity exist as required by 41 C.F.R. 60-2.17(b)(3). Specifically, ORACLE failed to identify problem areas in its compensation system(s) to determine whether sex or race based disparities existed.

⁷ See footnote 4.

CORRECTIVE ACTION:

ORACLE must agree to perform in-depth analyses of its total employment processes to determine whether and where impediments to equal employment opportunity exist. ORACLE must agree to evaluate its compensation system(s), specifically base salary, bonus programs, starting wages, pay increases, restricted stock units (RSU) or other stock awards, promotions relative to pay, and any other benefits, to determine whether there are sex, race or national origin based pay disparities. ORACLE will incorporate these analyses and determinations into its current AAP and will update these analyses at least annually and incorporate them into future AAPs.

7. VIOLATION:

ORACLE failed to demonstrate good faith efforts to develop and execute action-oriented programs designed to correct pay disparities as of January 1, 2013. Specifically, ORACLE was unable to demonstrate that it had conducted any pay equity analyses, or otherwise attempted to correct the problem areas identified in 41 C.F.R. 60-2.17(b)(3) in violation of 41 C.F.R. 60-2.17(c).

CORRECTIVE ACTION:

ORACLE must agree to conduct an in-depth analysis of its total employment processes to determine whether any impediments to equal opportunity exist. ORACLE must then develop and implement action-oriented programs designed to remove any identified impediments and institute salary adjustment procedures to determine where and how equity adjustments should be made to ensure nondiscrimination.

8. VIOLATION:

ORACLE failed to develop and implement an internal audit and reporting system that periodically measured the effectiveness of its total affirmative action program as required by 41 C.F.R. 60-2.17(d). Specifically, ORACLE failed to monitor its records of all personnel activities, such as compensation, at all levels to ensure its nondiscriminatory policy was carried out.

CORRECTIVE ACTION:

ORACLE must agree to implement an internal audit and reporting system to periodically measure the effectiveness of its total affirmative action program. ORACLE must agree to take the following corrective actions:

- a) Monitor records of all personnel activity, such as all components of compensation, to ensure the non-discriminatory policy is enforced;
- b) Require internal reporting on a scheduled basis as to the degree to which equal employment opportunity and organizational objectives are attained;
- c) Review reports with all levels of management;

- d) Advise top management about the effectiveness of the equal employment opportunity program and submit recommendations to improve any unsatisfactory performance; and
- e) Provide training to all employees who participate in any component of ORACLE's compensation system(s).

RECORDKEEPING AND ACCESS VIOLATIONS (VIOLATION 9-10)

9. VIOLATION:

ORACLE failed to collect and maintain personnel and employment records and conduct adverse impact analyses in accordance with the requirements of 41 C.F.R. 60-1.12(a) and Part 60-3. Additionally, ORACLE failed to conduct the adverse impact analyses required by 41 C.F.R. 60-3.15A and 60-3.4.

CORRECTIVE ACTION:

ORACLE will ensure that its records are collected and maintained in accordance with the requirements of 41 C.F.R. 60-1.12(a) and Part 60-3. ORACLE will conduct adverse impact analyses on at least an annual basis for the purpose of determining whether adverse impact exists against applicants based on race, sex, or national origin/ethnic group in hiring, promotion, termination, and other personnel activities. These analyses will be done by job for each group constituting more than 2% of the labor force in the relevant labor area or 2% of the applicable workforce. If adverse impact is identified in the total selection process, ORACLE will evaluate each individual component of the selection process for adverse impact. If adverse impact is found to exist in any of the individual components of the selection process, ORACLE will validate each such component in accordance with the Uniform Guidelines on Employee Selection Procedures or utilize selection procedures which do not result in adverse impact.

10. VIOLATION:

ORACLE denied OFCCP access to records, including prior year compensation data for all employees and complete hiring data for PT1 roles during the review period of January 1, 2013 through June 30, 2014, which are relevant to the matter under investigation and pertinent to ORACLE's compliance with Executive Order 11246, as amended, and the regulatory requirements at 41 C.F.R. 60-1.12; 60-1.20; 60-1.43; 60-2.32 and 60-3.4.

CORRECTIVE ACTION:

ORACLE must immediately provide to OFCCP all relevant compensation and hiring data, which was requested on April 27, 2015, May 11, 2015, May 28, 2015, July 30, 2015, October 1, 2015, October 14, 2015, November 2, 2015, and December 15, 2015.

Finally, please note that nothing herein is intended to relieve ORACLE from the obligation to comply with the requirements of E.O. 11246, Section 503, and/or VEVRAA, their implementing regulations, or any other equal employment opportunity/ nondiscrimination statute, executive order or regulation. In addition, this Notice of Violation in no way limits the applicability of the revised regulations implementing Section 503, 41 C.F.R. Part 60-741 (2014) and the revised regulations implementing VEVRAA, 41 C.F.R. Part 60-300 (2014).

In order to come into compliance, ORACLE must enter into a binding Conciliation Agreement with OFCCP that encompasses all of the corrective actions described above. It is our desire to avoid enforcement proceedings. You may contact me at (415) 625-7839 within five (5) business days of receipt of this letter if ORACLE would like to begin conciliation and resolution of the specified violations.

Sincerely,



Robert Doles
District Director

cc: Shauna Holman-Harries (via email: shauna.holman.harries@ORACLE.com)
Director Diversity Compliance, Oracle America, Inc.

Juana Schurman (via email: juana.schurman@ORACLE.com)
Vice President and Associate General Counsel, Oracle America, Inc.

Gary R. Siniscalco (via email: grsiniscalco@orrick.com)
Orrick Herrington & Sutcliffe LLP

Enclosure

ATTACHMENT A

COMPENSATION DISCRIMINATION (VIOLATIONS 2-5)

Analysis of Employees' Annual Salary and Gender

The United States Department of Labor, Office of Federal Contract Compliance Programs ("OFCCP") conducted statistical analysis of the employment records Oracle America, Inc. ("Oracle") provided to OFCCP during its equal employment opportunity investigation of Oracle's facility in Redwood Shores, California. OFCCP analyzed Oracle employees' compensation data by Oracle job function using a model that included the natural log of annual salary as a dependent variable, and accounted for differences in employees' gender, work experience at Oracle, work experience prior to Oracle, full-time/part-time status, exempt status, global career level, job specialty, and job title.

As displayed in the table below, the results of the analysis show a statistically significant salary disparity adverse to female employees in *Information Technology*, *Product Development*, and *Support* roles.

Regression Analysis of Female and Male Employees' Salary Difference at Oracle

Year¹	Class	Number of Female Class Members	Standard Deviations
2014	Female Information Technology Employees	133	-2.71
2014	Female Product Development Employees	1,207	-8.41
2014	Female Support Employees	47	-3.67

¹ Oracle provided OFCCP with one year of compensation data that included Oracle employees who were employed at the relevant facility on January 1, 2014. Oracle refused to provide OFCCP with its prior year compensation data.

Analysis of Employees' Annual Salary and Race

The United States Department of Labor, OFCCP conducted statistical analysis of the employment records Oracle provided to OFCCP during its equal employment opportunity investigation of Oracle's facility in Redwood Shores, California. OFCCP analyzed Oracle employees' compensation data by Oracle job function using a model that included the natural log of annual salary as a dependent variable, and accounted for differences in employees' race, work experience at Oracle, work experience prior to Oracle, full-time/part-time status, exempt status, global career level, job specialty, and job title.

As displayed in the table below, the results of the analysis show a statistically significant salary disparity adverse to African American and Asian employees in *Product Development* roles.

Regression Analysis of African American and White Employees' Salary Difference at Oracle

Year ²	Class	Number of Black Class Members	Standard Deviations
2014	African American Product Development Employees	27	-2.10

Regression Analysis of Asian and White Employees' Salary Difference at Oracle

Year ³	Class	Number of Asian Class Members	Standard Deviations
2014	Asian Product Development Employees	3,086	-6.55

² Oracle provided OFCCP with one year of compensation data that included Oracle employees who were employed at the relevant facility on January 1, 2014. Oracle refused to provide the Agency prior year compensation data.

³ Oracle provided OFCCP with one year of compensation data that included Oracle employees who were employed at the relevant facility on January 1, 2014. Oracle refused to provide the Agency prior year compensation data.

Analysis of Employees' Annual Salary and National Origin

The United States Department of Labor, OFCCP conducted statistical analysis of the employment records Oracle provided to OFCCP during its equal employment opportunity investigation of Oracle's facility in Redwood Shores, California. OFCCP analyzed Oracle employees' compensation data by Oracle job function using a model that included the natural log of annual salary as a dependent variable, and accounted for differences in employees' national origin, work experience at Oracle, work experience prior to Oracle, full-time/part-time status, exempt status, global career level, job specialty, visa status, and job title.

As displayed in the table below, the results of the analysis show a statistically significant salary disparity adverse to American employees in *Product Development* and *Support* roles.

Regression Analysis of American and Non-American Employees' Salary Difference at Oracle

Year⁴	Class	Number of American Class Members	Standard Deviations
2014	American Product Development Employees	3,501	-7.07
2014	American Support Employees	185	-3.65

⁴ Oracle provided OFCCP with one year of compensation data that included Oracle employees who were employed at the relevant facility on January 1, 2014. Oracle refused to provide the Agency prior year compensation data.