U.S. Department of Labor

Office of Federal Contract Compliance Programs
Pacific Regional Office
90 – Seventh Street, Suite 18-300
San Francisco, CA 94103

VIA ELECTRONIC MAIL
AND CERTIFIED MAIL
(RETURN RECEIPT REQUESTED)

May 11, 2015

Mr. Gary R. Siniscalco
Orrick, Herrington & Sutcliffe LLP
405 Howard Street
San Francisco, CA 94105-2669

RE: Compliance Evaluation of Oracle, Redwood Shores, CA

Dear Mr. Siniscalco:

We acknowledge receipt of your letter dated April 27, 2015. While we disagree with your characterization of the onsite evaluation, we appreciate your client's desire to provide their cooperation in completing this compliance evaluation. However, we are disappointed that your client has again failed to meet the May 8, 2015 deadline to produce information requested by OFCCP, some dating back to February 10, 2015.

In your letter, you indicate that OFCCP's standard and routine request for discrimination complaints[1] is inconsistent with the FCCM and contrary to OFCCP's standards and practices nationwide. Under the regulations, the contractor must provide full access to all *relevant* data on-site as required by 41 CFR § 60-1.43. Our request for discrimination complaint data is relevant in determining Oracle's compliance with the Executive Order, Section 503, and 38 U.S.C. § 4212. In your letter, you reference that the FCCM does not expressly include "all internal complaints" on the list of personnel records that a CO should consider requesting during an on-site. While the FCCM provides technical and procedural guidance, it does not establish substantive agency policy nor was the manual intended to include an exhaustive list of every possible piece of information that could be requested in a compliance review.[2]

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[1] OFCCP's request for discrimination complaints was initially made on March 4, 2015. After receiving a response of "none", OFCCP again requested the information during the March 24, 2015 entrance conference and following the entrance conference by further clarifying the request to "all internal and external complaints of discrimination, harassment or retaliation filed at Oracle Headquarters within the past three years" and again in our April 15, 2015 letter, providing Oracle with numerous opportunities to comply with OFCCP's request.

[2] Federal Contract Compliance Manual "FCCM", *Introduction* ("The FCCM does not establish substantive agency policy. Therefore, if there is an inconsistency between material in the Manual and other OFCCP policies and its implementing regulations, the latter are controlling. OFCCP continues to use directives and other issuances to communicate substantive policy guidance, procedures, and agency enforcement priorities to its COs and those we regulate. This Manual is subject to change without public notice. The FCCM does not recreate new legal rights or requirements or change current legal rights or requirements for federal contractors. The official sources for contractors' compliance obligations remain Executive Order 11246, as amended, Section 503 of the Rehabilitation

Based on your letter, Oracle refuses and will not be complying with our request for internal complaint data because it does not maintain any compilation or list of internal complaints or concerns and the Legal department only maintains files on formal charges filed with the DFEH and EEOC. It is our intent to proceed with the compliance evaluation despite your objections to our complaint data request, focusing on the substantive issues of the current compliance evaluation. As the appropriate point of contact for this compliance evaluation, District Director Hea Jung Atkins and Lead Compliance Office Hoan Luong are available to meet with you and your client to discuss any matters concerning this review.

Sincerely,

Jane Suhr
Deputy Regional Director
Pacific Region

cc: Juana Schurman, Vice President and Associate General Counsel (Juana.Schurman@oracle.com)
Shauna Holman-Harries, Director Diversity Compliance (shauna.holman.harries@oracle.com)

Act of 1973, as amended; the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended; OFCCP's regulations at 41 CFR Park 60; and applicable case law.")