

**U.S. Department of Labor**

Office of Federal Contract Compliance Programs  
Pacific Regional Office  
90 7<sup>th</sup> Street, Suite 18-300  
San Francisco, California 94103



*Via Certified Mail, Return Receipt Requested*  
(#7015 0640 0001 7090 3364)

June 8, 2016

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:

On March 11, 2016, the United States Department of Labor, Office of Federal Contract Compliance Programs ("OFCCP"), issued a Notice of Violations against Oracle America, Inc. ("ORACLE") based on the findings of our recent compliance evaluation of ORACLE in Redwood Shores, California. OFCCP conducted the compliance evaluation pursuant to ORACLE's status as a federal contractor subject to nondiscrimination and affirmative action regulations enforced by OFCCP.<sup>1</sup> During the compliance evaluation period to the present, ORACLE voluntarily assumed this status and related obligations in exchange for over \$300 million in federal contracts from American taxpayers.

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<sup>1</sup> Executive Order 11246, as amended; Section 503 of the Rehabilitation Act of 1973, as amended; the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended; 41 C.F.R. Part 60; *see also First Alabama Bank of Montgomery v. Donovan*, 692 F.2d 714, 716 n.1 (11th Cir. 1982)(Executive Order 11246 "imposes a duty on the contractor or subcontractor to establish and update annually a written affirmative action program, and provides for compliance investigations by the Department of Labor. Sanctions for non-compliance include referral to the Department of Justice for legal action, termination of existing government contracts, and debarment from future government contracts.").

Throughout the recent compliance evaluation, OFCCP reviewed and analyzed ORACLE's individual applicant and employee records, written policies and other information, and concluded that ORACLE engaged in systemic discrimination in recruiting, hiring and compensation practices at its headquarters. For example, OFCCP's analyses uncovered evidence that:

- ORACLE's recruiting practices resulted in systemic disparities against non-Asian applicants, particularly African American, Hispanic and White applicants, at -8, -10, and -80 standard deviations, respectively;
- ORACLE's hiring practices resulted in systemic disparities against non-Asian applicants, particularly African American, Hispanic and White applicants, at -4, -3, and -28 standard deviations, respectively; and
- ORACLE's compensation practices resulted in systemic disparities against African American, Asian American, American and female employees, at -2, -7, -7, and -8 standard deviations, respectively.<sup>2</sup>

To resolve the violations listed in the Notice of Violations, OFCCP attempted to engage ORACLE in a good faith and timely conciliation process on March 16, March 29, and April 21, 2016. ORACLE, however, dismissed the government's conciliation efforts.

For example, ORACLE refused to meet to discuss conciliation with any official from OFCCP. ORACLE also rejected OFCCP's request for a written rebuttal analysis or substantive response to the statistical evidence relied upon in the violations of the Notice. ORACLE instead conditioned its response upon receipt of answers from the Agency to nearly sixty contention questions, which sought the identification of each fact supporting each finding listed in the Notice; and information about every factor, model, iteration, and computation considered in its analysis at any time during the compliance evaluation; among other privileged information. ORACLE also withheld information about employee witnesses, complaints and other records from OFCCP.

ORACLE has not provided a substantive rebuttal analysis, based upon statistical evidence, to the violations of the Notice. ORACLE either cannot or will not provide it. The additional information sought and procedural arguments raised by ORACLE are not a rebuttal.<sup>3</sup> It is

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<sup>2</sup> ORACLE withheld evidence from OFCCP regarding its recruiting, hiring and compensation practices and other information during the compliance evaluation; therefore, additional violations could be uncovered in future enforcement proceedings.

<sup>3</sup> This Federal Contract Compliance Manual (hereafter referred to as the "FCCM" or the "Manual") does not establish substantive agency policy. OFCCP continues to use directives and other issuances to communicate substantive policy guidance, procedures, and agency enforcement priorities to staff and those we regulate. The FCCM does not create 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 Act of 1973, as amended; the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended; OFCCP's regulations at 41 CFR Part 60; and applicable case law.

neither a relevant nor appropriate response to the statistical evidence of systemic discrimination uncovered in the compliance evaluation and disclosed in the Notice.

Accordingly, OFCCP's findings remain un rebutted and conciliation efforts have failed to resolve the violations. OFCCP is now issuing this Notice to Show Cause, within 30 calendar days of your receipt of this Notice, why enforcement proceedings should not be initiated pursuant to Executive Order 11246, as amended, as implemented by 41 C.F.R. 60-1.26.

A list of the violations at issue is enclosed. You are required to correct these violations as indicated within 30 calendar days of your receipt of this Notice or OFCCP shall recommend that the Department of Labor initiate enforcement proceedings against ORACLE.

Should you have any questions or wish to discuss a resolution to the issues raised herein, please contact Hea Jung Atkins at (415) 625-7829 to schedule a meeting or telephone conference.

Sincerely,



Janette Wipper  
Regional Director  
Pacific Region

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

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

Gary R. Siniscalco (via email: [gsiniscalco@orrick.com](mailto:gsiniscalco@orrick.com))

Erin M. Connell (via email: [econnell@orrick.com](mailto:econnell@orrick.com))

Lauri A. Damrell (via email: [ldamrell@orrick.com](mailto:ldamrell@orrick.com))

Orrick Herrington & Sutcliffe LLP

Enclosure