

Oracle conciliation meeting notes – 10/6/16 (10 am - 12pm)

Attendees:

Oracle: Charles Nyakundi, Shauna Homan-Harries, Juana Schurman, Gary Siniscalco, Erin Connell

OFCCP: Janette Wipper, Jane Suhr, Hea Jung Atkins, Hoan Luong, Laura Bremmer, Ian Eliasoph

Janette –

- Oracle’s long history as a federal contractor. Contractor since inception and revenue is 10% from federal government contracts. Oracle is a large federal contractor, subject to stringent requirements as a federal contractor, no arbitration clause. Oracle is in a different place than smaller contractors with \$50K contracts. Agency is taken back by how this review has gone. There have been over 100 correspondences, low cooperation from Oracle and we found significant evidence of discrimination.
- Agency found violations in Hiring – PT1 individual comparator. Compared to software developer occupations that Oracle used in LCAs, we found significant issues, more than its competitors/peer groups, of -8 to -80 SD against non-Asians. This is significant and alarming.
- Agency also found compensation violations which showed gender and race issues. For females, it’s between -3 to -8 SD in salary disparities, using Oracle’s categories in its job posting, and HR data. For blacks, it’s between -2 to -7 SDs.
- The violations (NOVs) were issued 6 months ago. Other contractors provide their expert reports, rebuttal analysis, etc. (which didn’t happen with Oracle). Our models are easy to replicate and it’s based on Oracle’s data. We have exhausted our conciliation process at this point.

Gary –

Appreciate the agency’s understanding and Oracle is interested in conciliation and have questions. Oracle wants to engage in conciliation that is appropriate, transparent, informative, and in an honest way.

Janette –

We are prepared to engage as well.

Gary –

Disagree with Janette’s statement. There's been clear documented record of conduct issues – lies, misrepresentations, and mischaracterization.

Janette -

What we need to know is whether Oracle has rebuttals to the violations. Individual Title VII

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cases don't apply here. We're dealing with systemic discrimination, pattern across the tech workforce.

Gary -

Don't understand the recruiting violation.

Janette -

We compared with data from the US Census, BLS, EEO-1 data using categories in Oracle's LCAs.

Gary -

Employees have nothing to do with hiring at Oracle.

Janette -

Disagree, employees are involved through referrals, word of mouth recruiting, etc.

*Gary points out Oracle's outreach efforts and that OFCCP did not request for recruiter interviews.

Ian -

FCCM is not binding and it states that. It's Oracle's turn to provide any justification to the violations.

Janette -

We have gross disparities, based on your grouping (LCA) which you signed under penalty of perjury. You can tell that to a judge.

Gary -

Don't understand the findings, what additional data is needed.

Janette -

We need a response to the NOV, and if it is not correct, provide nondiscriminatory explanation. In compensation, based on Oracle's own categories and Oracle's variables there are violations against women and Asians and Blacks using a conservative approach. 'Supervisor' has not been successful in courts. Intangible factors are also a weak defense. We need Oracle to provide its analysis that explains the disparities.

Gary -

Products matter and there are 100 different products. It's reality. Product affects salary.

Juana -

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But there is no policy that reflects this.

Gary -

Longer tenure doesn't equate higher pay. Oracle needs to pay someone more to recruit from a competitor. OFCCP never asked about the products. Internal equity considered at starting pay. At focal review, internal equity again looked at. Product is not captured in data.

Shauna -

Product information is not consistently captured.

Gary -

Explanation response is cohort based, not statistical. Statistical analysis requires the premise of SSEG but it doesn't work here because of the small numbers (if break up by supervisor). OFCCP is not looking at comparable people.

Janette -

Your defense is going to be a difficult one. Your explanations are not documented, self-audit requirement with affirmative obligations, and Cloud (hot product) is only 25% of the tech workforce. Rest of Oracle doesn't do new and exciting stuff.

Gary -

No one at OFCCP asked to look at Oracle's database. First time was in CASF review. This is not our defense. Our defense is that the agency's position is wrong. We are confident to litigate our position.

Janette -

If product line explains the disparity, then that means product line assignment is discriminatory and tainted.

Gary -

People apply or get hired through acquisition with specialty.

Erin -

If you look at what they are doing (product line), they are not SSEGs.

Janette -

We've exhausted our conciliation efforts. It's been a one way street information sharing.

Gary -

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What is your proposal?

Janette -

Based on limited information, back pay for compensation is \$22M/year carrying the violation forward and for hiring, \$64M-168M depends on mitigation with a SF of 382. Early settlement benefits the contractor.

Ian -

We expect a meaningful response.

Gary -

Will respond by third week of October. No later than end of October.

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