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To: wipper.janette@dol.gov <wipper.janette@dol.gov>
CC: Siniscalco, Gary R. <grsiniscalco@orrick.com>; Juana Schurman (juana.schurman@oracle.com) <juana.schurman@oracle.com>; Shauna Holman Harries <shauna.holman.harries@oracle.com>; Smith.M.Patricia@dol.gov" <Smith.M.Patricia@dol.gov>; Hadsell, Sara - OFCCP <Hadsell.Sara@dol.gov>
Sent: 12/21/2016 11:09:05 PM
Subject: Oracle Redwood Shores OFCCP No. R00192699
Attachments: Wipper Ltr 12-21-2016.pdf

Dear Ms. Wipper,

Please see attached correspondence, in connection with the above-referenced matter. Thank you.

Best Regards,

Erin M. Connell

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December 21, 2016

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Re: *Oracle America, Inc., Redwood Shores, California* (OFCCP No. R00192699)

Dear Ms. Wipper:

On December 6, and as revised on December 9, OFCCP advised Oracle of the Agency's referral of the above-referenced compliance review to the Office of the Solicitor. The same letter, however, in the next to last paragraph, alleges that Oracle has not responded fully to OFCCP's requests for compensation-related information, and invites Oracle to provide additional information. Specifically, the letter states, "To date, Oracle has not responded fully to OFCCP's requests for records related to its compensation practices, leading OFCCP to presume that that such missing records only support OFCCP's findings of violations." It further states, "If there is additional information Oracle wants OFCCP to consider in the context of its compensation practices, such materials must be produced promptly."

Because the same letter includes these statements, but also explains that OFCCP has referred this matter to the Solicitor for enforcement, we are unclear as to the nature of OFCCP's concerns about compensation information purportedly not provided, as well as whether OFCCP is looking for more information. We also are unclear as to the status of this matter, including whether a response to our December 12 letter to the Solicitor is forthcoming, or if we are still engaging with your office.

Throughout this compliance review, Oracle has taken strong issue with OFCCP's contentions that Oracle has improperly failed to provide relevant, requested information. Additionally, we already have addressed what we believe is OFCCP's improper application of the adverse presumption regulation, 41 CFR 60-1.12 (e). Moreover, on many occasions during the review when OFCCP compliance officers asked for information, they were informed it was not readily retrievable in e-format, and would need to be reviewed and researched manually. On other occasions, Oracle raised questions about certain requests, but received no reply. Additionally, in connection with the on-site reviews, Oracle explained that at no time did any compliance officer ask to access or review any personnel records. Notably, in OFCCP's April 21 response to question # 10 (asking why compliance officers made no requests to review application

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materials), OFCCP replied that it “is not required to review all documents onsite. See 41 CFR 1.20(a)(2).” While this statement may be accurate, it does not address the circumstances of this review. This response, as well as OFCCP’s position throughout this compliance review, is at odds with the preceding subsection 1.20(a)(1)(ii), which specifies, in relevant part, that “On-site review normally will involve...inspection and copying of documents.”

As we have noted previously, OFCCP never availed itself of the opportunity to review personnel records. For example, while we believe that due to privacy rights, Oracle cannot hand over employees’ personal, private contact information, nothing prevents OFCCP from reviewing employee files, and copying or taking notes on such information themselves, consistent with section 1.20.

Further, during our conciliation meeting regarding HQCA, we had a separate discussion about the CASF review and Oracle’s continued urging for OFCCP to come on-site to allow the Agency access and review of records that were not retrievable in e-format. Following that meeting, Jane Suhr and Hoan Luong eventually did come onsite to CASF. With the assistance of Mr. Charles Nyakundi, they were able to access and review whatever files or documents they chose. And, where they requested copies, Oracle arranged for them to be made.

We came away from our conciliation discussion with OFCCP in October thinking that it was a useful and productive dialogue, and were under the impression the Agency felt the same way. Accordingly, rather than additional correspondence, we believe a dialogue may be more useful at this stage. We would be happy to discuss the specific compensation information OFCCP believes Oracle has not provided, and has withheld improperly, as well as any other information the Agency would like to see. In addition, we once again invite OFCCP to come onsite and review any personnel records it believes are relevant to the HQCA audit. While we may not resolve all of these information issues, at a minimum, we would like to have a common and clear understanding of what they are, so we can then determine whether we can address some or all of them.

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We look forward to hearing from you.

Very truly yours,

A handwritten signature in cursive script that reads "Erin M. Connell".

Erin M. Connell

cc: Gary R. Siniscalco
Shauna Holman Harries
Juana Schurman
M. Patricia Smith

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