



March 6, 2019

VIA ELECTRONIC MAIL ONLY

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Re: *OFCCP v. Oracle America, Inc.*, Case No. 2017-OFC-00006,
Data Requests

Dear Katie,

This letter responds to your February 27, 2019 letter to me regarding data production.

Supplementation of Previously-Produced Data Files

On February 14, 2019, in an effort to compromise on discovery, and ensure that Oracle supplemented previously-produced data to OFCCP as quickly as possible, OFCCP sent Oracle a spreadsheet showing data that it was willing to forgo at this time. Nevertheless, with respect to the hiring data, Oracle is undertaking an additional burden to revise the scripts to narrow its production. In other words, it will be more efficient and less burdensome to supplement the data for the same populations of applicants and hires as Oracle produced previously. Changing its scripts and the data it produces will also place a higher burden on OFCCP and its experts to understand the new filters on the data, and changes to the data set. It will lead to more correspondence and other discovery, including depositions, regarding the data. Creating additional burdens on both the parties, and delaying Oracle's supplementation of the hiring data is unwarranted, and at odds with procedural rules regarding discovery.

Moreover, the pool of applicants and hires for which Oracle previously produced data remains relevant, both because the proposed Second Amended Complaint has not yet been filed, and because OFCCP explicitly reserves the right to amend the complaint to allege hiring discrimination on behalf of experienced hires. Oracle's approach throughout the compliance review and this litigation has been to narrow its responses so much that it excludes relevant information. There are instances where data entries are inconsistent; to take an example from the experienced hires, some applicants who transferred from Oracle affiliates in other countries are designated "New Hires" in the data, while others are "International Transfer." Thus, excluding a particular type of hire may inadvertently exclude people who actually should be included in the pool. Further, all (or virtually all) the experienced hires into the PT1 job group from 2017 through 2019 are also employees in the compensation pool. Thus, the applicant and hiring data of these employees is relevant to the compensation case. OFCCP does not agree with the

Exhibit P-215

limitations Oracle is unilaterally making to its supplementation of the hiring data. OFCCP requests that if Oracle continues to take the position that it can narrow the data, Oracle should identify which data files for which it intends to rewrite the scripts prior to supplementation, and how it intends to filter the data and narrow the pool of data. From Oracle's response, it does not appear that Oracle is taking the position that it will not supplement some of the hiring data files on the ground that they are no longer relevant. However, if OFCCP's understanding is incorrect, please identify any hiring files that OFCCP requested be supplemented, but that Oracle does not intend to supplement.

OFCCP also notes that with regard to the hiring data Oracle only agrees to "supplement the data fields requested by OFCCP related to its hiring claims with *available data, if any.*" What is "available data?" If Oracle is taking the position that some of the data or files that OFCCP requested be supplemented are not "available," please identify them. Please identify any hiring files that Oracle does not intend to supplement, so that the parties can meet and confer.

Finally, if Oracle has new databases that contain the types of data that Oracle produced previously, Oracle is obligated to supplement its data production from these sources. If there are new sources of data, please identify them, so that we can adequately meet and confer.

With respect to the compensation data, Oracle also includes the qualification that it will only provide "*readily available updated data, if any.*" Again, please explain this qualification. If there are compensation files that OFCCP identified for supplementation that Oracle does not intend to supplement, or data that is not "readily available," please identify it. If Oracle has new databases storing the compensation data that Oracle previously produced, Oracle will need to supplement its data production from such databases. If there are any such new databases, please identify them.

Educational Data and Experience of Oracle Employees in Compensation Class

Your letter indicates that Oracle would investigate whether data is available for the compensation population that corresponds to the following tabs provided for the hiring population in PT1_HQCA_IREC_MAIN.xlsx: (1) APL_EMPLOYMENT_HISTORY, (2) APL_QUALIFICATIONS, and (3) APPLICANT_PROFILES. Please confirm that you will be producing this data for the compensation population. If Oracle does not plan to produce such data, let us know immediately, and provide a justification for not producing such highly relevant data.

If Oracle has additional educational data available for any of Oracle's for whom Oracle produces compensation data or for anyone for whom it produces data for the hiring case, OFCCP requests that Oracle produce it. If no further data showing such employees' education or experience is available, please confirm that Oracle has conducted a reasonably diligent search and no further data is available.

Compa-ratios

In my February 15, 2019 letter, I explained why the data showing the compa-ratios of employees transferred to HQCA from Oracle's affiliates abroad is highly relevant. Oracle has admitted that compa-ratios are relevant to the compensation case and have produced data

regarding compa-ratios. We understand that Oracle has access to this information and it would have been reviewed by managers setting pay when the employee transferred to the U.S. Although compa-ratio data is both highly relevant and available, Oracle wrote scripts to exclude the data from its production. This was improper. It may be easiest to simply produce the historical compa-ratios of all Oracle employees, whether they were employed by an Oracle affiliate abroad or in the United States. At a minimum, we request each employee's last compa-ratio at an Oracle affiliate before transfer to the Support, Product Development, and Info Tech Job Functions at HQCA. For the iRec data, for example, that would include employees listed in the HQCA_iRec_MAIN.xlsx file having a HIRE_TYPE of International Transfer in Column AR, or employees for which a salary in a denomination other than US dollars is listed in the CANDIDATE_CURRENT_SALARY_ATV (Column BC).

Temporal Scope of the Data

Although OFCCP is entitled to data through the date that Oracle produces such information, or at least the date that it gathers the information, it is willing to accede to Oracle's proposed end date of January 18, 2019 for the data. Of course, if the schedule of the case changes significantly, OFCCP reserves the right to further supplement the data.

With respect to the start date for the data, Oracle's response to OFCCP's request for historical data misconstrues the request. OFCCP is not requesting this data to bring "actionable claims" in this matter on behalf of employees who were only employed at HQCA prior to 2013. Rather, OFCCP seeks historical data of such employees to compare to the historical data of Oracle employees that OFCCP already produced. Oracle has already produced historical data for its employees going back to 1985, acknowledging that such historical data is relevant to an analysis of compensation. To render the analysis more complete, and to fully analyze the data, including the impact of starting pay, OFCCP requests compensation data for Oracle employees in HQCA who worked in the same job functions as the employees in the compensation class (in other words, the class members' comparators). Such data is relevant to OFCCP's statistical analysis of the compensation data. This is the reason we requested data for all employees at HQCA in Product Development, Support, and Information Tech extending back to 1985.

Oracle does not claim that producing historical data would be burdensome. In fact, my understanding is that it is easier to write a script to extract data for all employees from 1985 through 2019 than to write a script that will exclude a portion of those employees (those who were employed at HQCA prior to 2013). Nevertheless, OFCCP is willing to compromise on the amount of historical data it will accept. OFCCP suggests that as Oracle revises its scripts to supplement its compensation data through 2019, that it also seek historical data for Oracle employees at HQCA in Product Development, Support, and Information Tech job functions for the 10 years prior to 2013 (in other words, 2002). To clarify, Oracle would be supplementing the compensation data it provides forward and backward, providing the same types of data for employees in the Product Development, Support, and Information Tech job functions who were employed at HQCA from 2002-2013 (including the same type of historical data that Oracle already produced for employees from 2013-2016). It should be relatively easy to rewrite the scripts to obtain this additional data.

We look forward to talking to you further about these issues.

Sincerely,

A handwritten signature in blue ink that reads "Laura C. Bremer". The signature is fluid and cursive, with a long horizontal stroke at the end.

Laura C. Bremer