

**UNITED STATES DEPARTMENT OF LABOR
OFFICE OF ADMINISTRATIVE LAW JUDGES**

OFFICE OF FEDERAL CONTRACT
COMPLIANCE PROGRAMS, UNITED
STATES DEPARTMENT OF LABOR,

Plaintiff,

v.

ORACLE AMERICA, INC.,

Defendant.

OALJ Case No. 2017-OFC-00006

OFCCP No. R00192699

**DEFENDANT ORACLE
AMERICA, INC.'S AMENDED &
SUPPLEMENTAL RESPONSES
AND OBJECTIONS TO FIRST
SET OF REQUESTS FOR THE
PRODUCTION OF DOCUMENTS**

PROPOUNDING PARTY: Plaintiff OFFICE OF FEDERAL CONTRACT
COMPLIANCE PROGRAMS, UNITED STATES
DEPARTMENT OF LABOR

RESPONDING PARTY: Defendant ORACLE AMERICA, INC.

SET NO.: One

On March 7, 2017, Defendant Oracle America, Inc. ("Oracle") served its Responses ("Initial Responses") to Plaintiff Office of Federal Contract Compliance Programs, United States Department of Labor's ("OFCCP") First Set of Requests for Production of Documents ("Requests"). Pursuant to Federal Rule of Civil Procedure 26(e)(1), Oracle amends and supplements its Initial Responses as follows:

PRELIMINARY STATEMENT

Oracle has not completed its investigation of the facts related to this case and therefore its responses are of a preliminary nature. Further discovery, investigation, and research may bring to light additional relevant facts that may lead to changes in the responses set forth below. Although these responses are complete to the best of Oracle's knowledge at this time, these responses are given without prejudice to Oracle's right to amend its objections and responses or to produce additional relevant evidence that may come to light regarding the issues raised in this lawsuit. Nothing contained in these responses shall in any way limit Oracle's ability to make all

DEF. ORACLE AMERICA, INC.'S AMENDED & SUPPLEMENTAL RESPONSES TO REQUEST FOR PRODUCTION OF
DOCUMENTS
CASE NO. 2017-OFC-00006

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OHSUSA:767064293.11

Exhibit P-281

uses at trial or otherwise of the information or documents referenced herein or of any subsequently discovered information or documents or of information or documents omitted from these responses as a result of good faith oversight, error, or mistake.

Oracle has participated in seven good faith meet and confer calls with OFCCP spanning over fifteen hours as well as an exchange of several meet and confer letters since May 18, 2017. As a result of the aforementioned meet and confer efforts, Oracle has gained insights and clarifications that merit amending and supplementing its responses as set forth herein.

In its Notice of Violation (“NOV”) dated March 11, 2016, OFCCP expressly stated that its investigation and findings related to hiring and recruiting for “Professional Technical 1, Individual Contributor (‘PT1’) roles” at Oracle’s Redwood Shores, CA, location. However, in its Amended Complaint, which is based on that same NOV, OFCCP stated that its hiring and recruiting claims apply to “positions in the [PT1] job group *and Product Development line of business* (or job function at Oracle Redwood Shores).” Amended Complaint ¶ 10 (emphasis added). Oracle has taken the position that OFCCP’s Amended Complaint thereby limited the relevant job positions for the purposes of OFCCP’s hiring and recruiting claims to Product Development positions within the PT1 job group at Oracle’s Redwood Shores, CA, location. OFCCP contends—despite the narrower focus of its NOV—that its hiring and recruiting claims now extend to both PT1 positions and to all positions in Product Development generally. In the spirit of compromise and in the interest of interpreting OFCCP’s Amended Complaint in accordance with the NOV upon which it is based, Oracle’s responses and productions responsive to the document requests related to OFCCP’s recruiting and hiring claims are limited to the PT1 job group at Oracle’s Redwood Shores, CA, location. For the reasons set forth in Oracle’s Answer, Oracle’s responses and productions responsive to the document requests related to OFCCP’s compensation claims are limited to positions in the Product Development, Support, and Information Technology job functions at Oracle’s Redwood Shores, CA, location.

While Oracle maintains its objection that its production should be limited to responsive

documents from the period of January 1, 2013 through June 30, 2014 for Requests related to OFFCP's hiring claims, and January 1, 2013 through December 31, 2014 for Requests related to OFCCP's compensation claims, Oracle acknowledges that, as of this date, the issue of the relevant time period is currently pending before Judge Larsen, and that Judge Larsen's decision regarding the relevant time period at issue in the Amended Complaint ("ALJ Relevant Period") will govern its discovery obligations.

To the extent that OFCCP's requests seek "all documents," and "all communications" related to a broadly-defined topic, category, or custodian, it is well-established that requests of this type are inherently overbroad. "Rule 34(b) requires the requesting party to describe the items to be produced with 'reasonable particularity.'" *Life Alert Emergency Response, Inc. v. Connect America.com LLC*, No. CV-13-3455, 2015 WL 12765465, at *7 (C.D. Cal. Jan. 23, 2015). "Sweeping requests for 'all documents' that may encompass swaths of both relevant and irrelevant documents do not satisfy Rule 34's 'reasonable particularity' standard." *Id.* (citations omitted); *see also Regan-Touhy v. Walgreen Co.*, 526 F.3d 641, 649 (10th Cir. 2008) (quoting Manual for Complex Litigation for the proposition that courts should "forbid sweeping requests" and "direct counsel to frame requests for production of the fewest documents possible"); Similarly, "all-encompassing requests for 'all communications' between [defendants] are overbroad." *Life Alert*, 2015 WL 12765465, at *7; *see also Regan-Touhy*, 526 F.3d at 649 ("[T]he burdens and costs associated with electronic discovery, such as those seeking 'all email,' are by now well known, and district courts are properly encouraged to weigh the expected benefits and burdens posed by particular discovery requests.").

The burden of justifying such broad requests falls on OFCCP, which, over the course of repeated meet and confer conversations, has failed to explain how many of these requests are reasonably framed to obtain relevant documents and do not place obligations on Oracle that are disproportionate to the needs of the case. *See Gilead Sciences, Inc. v. Merck & Co.*, No. 5:13-cv-04057, 2016 WL 146574, at *1 (N.D. Cal. Jan. 13, 2016) ("a party seeking discovery of relevant,

non-privileged information must show, before anything else, that the discovery sought is proportional to the needs of the case”). OFCCP’s failure to tailor many of these requests or specify the documents they hope to obtain is especially glaring in light of OFCCP’s NOV, which explains that OFCCP previously obtained and “reviewed employment policies, practices, and records; interviewed management, human resources, and non-management employees; examined employee complaints; analyzed individual employee compensation data and other evidence; [] conducted an onsite inspection of the worksite[;]” and reviewed and analyzed Oracle’s own “hiring data and appropriate workforce availability statistics” as part of its 18-month compliance review. NOV at 2-5. During those 18 months, OFCCP also had access to personnel records and relied on these records in making its discrimination findings. Accordingly, by OFCCP’s affirmative admissions, it has already collected massive amounts of material, including many of the records it now seeks here, from Oracle—material that OFCCP found adequate to support its findings in the NOV and its Amended Complaint in this action. And while OFCCP has identified certain materials that Oracle allegedly refused to provide during the compliance review process, OFCCP’s multiple burdensome requests for “all documents” and “all communications” related to a broad array of subjects extend well beyond the materials identified in the NOV and Amended Complaint. For these reasons, Oracle maintains below many of the objections that it raised in its Initial Requests on the basis of undue burden, overbreadth, and disproportionality.

These responses are made solely for purposes of this action, and are subject to all objections as to competence, authenticity, relevance, materiality, propriety, admissibility, and any and all other objections and grounds that would or could require or permit the exclusion of any document or statement therein from evidence, all of which objections and grounds are reserved and may be interposed at the time of trial.

No incidental or implied admissions are intended by these responses. The fact that Oracle has responded or objected to any request or part thereof shall not be deemed an admission that Oracle accepts or admits the existence of any facts set forth or assumed by such request.

Nor shall Oracle's responses or objections be deemed an admission that any statement or characterization in any request is accurate or complete, or that any particular document exists, is relevant, or is admissible in evidence.

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OBJECTIONS TO SPECIFIC DEFINITIONS

DEFINITION NO. 1. “YOU” and “YOUR” mean Oracle America, Inc. and all of its agents, representatives, attorneys, consultants, successors, subsidiaries, or divisions.

OBJECTION TO DEFINITION NO. 1:

Due to OFCCP’s lack of clarification or limitation of this term, Oracle objects to the OFCCP’s definitions of “YOU” and “YOUR” as vague, ambiguous, overbroad, unduly burdensome and oppressive, and encompassing documents not relevant to any party’s claim or defense nor proportional to the needs of the case, to the extent that these terms include Oracle’s agents, representatives, attorneys, consultants, successors, subsidiaries, or divisions. Oracle further objects to this definition to the extent it includes information protected by attorney-client privilege, the attorney work product doctrine, or calls for a legal conclusion as to the relationship between Oracle and other entities, including agents. Oracle further objects to this definition to the extent it seeks documents that are not relevant to the discriminatory conduct allegedly engaged in at Oracle’s Redwood Shores, CA, location. Accordingly, and in light of OFCCP’s Instruction No. 1, which provides “Unless otherwise stated, these requests relate to Oracle’s POLICIES, PRACTICES, or PROCEDURES that apply at its headquarters located at Redwood Shores, California”, Oracle’s responses, objections, and productions are limited to documents “relate[d] to Oracle’s POLICIES, PRACTICES, or PROCEDURES that apply at its headquarters located at Redwood Shores, California.”

DEFINITION NO. 2. “RELEVANT TIME PERIOD” means January 1, 2013 to the present unless otherwise stated.

OBJECTION TO DEFINITION NO. 2:

Oracle objects to this definition as including the term “present,” which renders the phrase vague, ambiguous, overbroad, unduly burdensome and oppressive, and encompassing documents not relevant to any party’s claim or defense nor proportional to the needs of the case. As noted above, Oracle maintains that its responses, objections and productions should be limited to the

relevant periods of January 1, 2013 through June 30, 2014 for Requests related to OFCCP's hiring claims and January 1, 2013 through December 31, 2014 for Requests related to OFCCP's compensation claims. Nevertheless, while preserving and maintaining its objections, Oracle will act in compliance with Judge Larsen's applicable ruling on the relevant period.

DEFINITION NO. 3. "AFFINITY GROUP" means any group of people linked by a common interest or purpose and includes, but is not limited to, gender or race.

OBJECTION TO DEFINITION NO. 3:

Due to OFCCP's lack of clarification or limitation of this term, Oracle maintains its objection to this definition as including the phrases "any group," "linked," and "common interest or purpose," which render the definition vague, ambiguous, overbroad, unduly burdensome and oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case. Oracle further objects to this definition to the extent it seeks documents that are not relevant to the OFCCP's allegations pertaining to Oracle's Redwood Shores, CA, location.

DEFINITION NO. 4. "And" and "or" shall be construed conjunctively or disjunctively as necessary to make the request inclusive rather than exclusive.

DEFINITION NO. 5. "ANSWER" means the Answer to the Amended Complaint filed by YOU in this action on February 8, 2017.

DEFINITION NO. 6. "COLLEGE RECRUIT" means any PERSON who expresses interest or applies to YOU through YOUR college recruiting program (including undergraduate students, graduate students, and recent graduates) for technical positions (as opposed to sales positions), including positions in the Professional Technical I, Individual Contributor job group or Product Development, Support, or Information Technology lines of business.

OBJECTION TO DEFINITION NO. 6:

Due to OFCCP's lack of clarification or limitation of this term, Oracle maintains its objection to this definition as including the term "PERSON" and the phrases "expresses

interest,” “college recruiting program,” and “technical positions,” which render the definition vague, ambiguous, overbroad, unduly burdensome and oppressive, and encompassing documents not relevant to any party’s claim or defense nor proportional to the needs of the case. Oracle further objects to this definition to the extent it seeks documents that are not relevant to the discriminatory conduct allegedly engaged in at Oracle’s Redwood Shores, CA location.

DEFINITION NO. 7. “COMMUNICATIONS” means all transactions or transfers of information of any kind, whether orally, in writing, or in any other manner, at any time or place, under any circumstances whatsoever.

OBJECTION TO DEFINITION NO. 7:

Due to OFCCP’s lack of clarification or limitation of this term, Oracle maintains its objection to this definition as including the phrase “all transactions or transfers” and the term “orally,” which render the definition vague, ambiguous, overbroad, unduly burdensome and oppressive, and encompassing documents not relevant to any party’s claim or defense nor proportional to the needs of the case. Oracle further objects to this definition to the extent it seeks documents that are not relevant to the discriminatory conduct allegedly engaged in at Oracle’s Redwood Shores, CA, location. Oracle’s responses, objections and production are limited to existing written or electronically stored information in the custody, control, and possession of Oracle America, Inc. and related to its Redwood Shores, CA, location.

DEFINITION NO. 8. “COMPENSATION” means any payments made to, or on behalf of, an employee as remuneration for employment, including but not limited to salary, wages, overtime pay, shift differentials, commissions, bonuses, vacation and holiday pay, retirement and other benefits, stock options and awards, and profit sharing.

OBJECTION TO DEFINITION NO. 8:

Due to OFCCP’s lack of clarification or limitation of this term, Oracle maintains its objection to this definition as including the phrase “remuneration for employment,” which renders the definition vague, ambiguous, overbroad, unduly burdensome and oppressive, and

encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case. Oracle further objects to this definition to the extent it seeks documents that are not relevant to the discriminatory conduct allegedly engaged in at Oracle's Redwood Shores, CA, location. Oracle's responses, objections and production are limited to documents in the custody, control, and possession of Oracle America, Inc. and related to its Redwood Shores, CA, location.

DEFINITION NO. 9. "COMPLIANCE REVIEW" means OFCCP's compliance evaluation of YOUR headquarters located at Redwood Shores, California in connection with the scheduling letter OFCCP sent to YOU on or about September 24, 2014 pursuant to 41 C.F.R. Chapter 60: Executive Order 11246, as amended; Section 503 of the Rehabilitation Act of 1973, as amended; and the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, unless otherwise stated.

OBJECTION TO DEFINITION NO. 9 (WITHDRAWN):

Based on OFCCP's clarifications during the meet and confer process, Oracle withdraws its prior objections to Definition No. 9.

DEFINITION NO. 10. "DOCUMENT" means all writings of any kind, including any written, printed, typed, electronically stored, or other graphic matter of any kind or nature and all mechanical or electronic sound recordings or transcripts thereof, in YOUR possession and/or control or known by YOU to exist, and also means all copies of documents by whatever means made, including, but not limited to: papers, letters, correspondence, emails, text messages, presentations, manuals, computerized files, computerized spreadsheets, telegrams, interoffice communications, memoranda, notes, notations, notebooks, reports, records, accounting books or records, schedules, tables, charts, transcripts, publications, scrapbooks, diaries, and any drafts, revisions, or amendments of the above, and all other materials enumerated in the definition provided in Rule 34 of the Federal Rules of Civil Procedure.

OBJECTION TO DEFINITION NO. 10:

Oracle maintains its objection to this definition as including the phrase “or known by YOU to exist,” which, to the extent such documents are not in Oracle’s possession, custody, or control, encompasses documents beyond those that Oracle has any obligation to produce.

DEFINITION NO. 11. “HIRING” or “HIRE” mean receiving expressions of interest, soliciting, recruiting, communicating with, screening, interviewing, evaluating, determining starting salary and other COMPENSATION for, and/or extending offers to, PERSONS who express interest in a position with YOU or requisition posted by YOU.

OBJECTION TO DEFINITION NO. 11:

Due to OFCCP’s lack of clarification of limitation, Oracle maintains its objection to this definition as unintelligible in its entirety. Oracle further objects to this definition as including the term “PERSON” and the phrases “expressions of interest,” “communicating with,” and “express interest,” which render the definition vague, ambiguous, overbroad, unduly burdensome and oppressive, and encompassing documents not relevant to any party’s claim or defense nor proportional to the needs of the case. Oracle further objects to this definition to the extent it seeks documents that are not relevant to the discriminatory conduct allegedly engaged in at Oracle’s Redwood Shores, CA. Oracle interprets this definition using the commonly understood use of the word “hiring” or “hire.”

DEFINITION NO. 12. “OFCCP” means the Office of Federal Contract Compliance Programs, United States Department of Labor.

DEFINITION NO. 13. “OFCCP’S REQUESTS FOR DATA” means all DOCUMENTS and COMMUNICATIONS requested from YOU by OFCCP during the COMPLIANCE REVIEW, whether orally, in writing, or in any other manner.

OBJECTION TO DEFINITION NO. 13:

Due to OFCCP’s lack of clarification or limitation, Oracle maintains its objection to this definition as including the term COMMUNICATIONS, which includes the term “orally,” and

the phrase “any other manner,” which render the definition vague, ambiguous, overbroad, unduly burdensome and oppressive. During the meet and confer process, Oracle sought clarification from OFCCP as to any limitations on the scope of this definition, which, as written, encompasses documents OFCCP declined to provide. Oracle further objects to this definition to the extent it seeks documents that are not relevant to the discriminatory conduct allegedly engaged in at Oracle’s Redwood Shores, CA, location. Oracle’s responses, objections and production are limited to existing written or electronically stored information in the custody, control, and possession of Oracle America, Inc. and relating to its Redwood Shores, CA, location.

DEFINITION NO. 14. “ORGANIZATIONAL CHART” means a graphic or written representation of the structure of YOUR business or any portion of YOUR business, which shows the relationships of the positions or jobs (including but not limited to reporting relationships) within each line of business, job function, or any other division or group as YOU have defined them in the normal course of YOUR business operations.

OBJECTION TO DEFINITION NO. 14:

Due to OFCCP’s lack of clarification or limitation, Oracle objects to this definition as including the terms “structure,” “relationship,” and “each,” which render the definition vague, ambiguous, overbroad, unduly burdensome and oppressive. Oracle further objects to this definition to the extent it seeks documents that are not relevant to the discriminatory conduct allegedly engaged in at Oracle’s Redwood Shores, CA, location. Oracle’s responses, objections and production are limited to responsive documents related to the Product Development, Support, and Information Technology job functions at its Redwood Shores, CA, location.

DEFINITION NO. 15. “PERSON” means without limitation individuals, firms, associations, partnerships, corporations, governmental agencies or offices and employees, and any other entity.

OBJECTION TO DEFINITION NO. 15 (WITHDRAWN):

Based on OFCCP’s clarifications during the meet and confer process, Oracle withdraws

its prior objections to Definition No. 15.

DEFINITION NO. 16. “PERSONNEL” means information relating to YOUR current, former, or prospective employees.

OBJECTION TO DEFINITION NO. 16 (WITHDRAWN):

Based on OFCCP’s clarifications during the meet and confer process, Oracle withdraws its prior objections to Definition No. 16.

DEFINITION NO. 17. “PERSONNEL FILE” means any data, file (including electronic files), collection of DOCUMENTS and COMMUNICATIONS, or other form in which information is stored or maintained by YOU or any of YOUR officers, executives, all levels of management, human resources department(s) or division(s), and/or any other employee or PERSON acting or purporting to act on YOUR behalf or at YOUR direction, concerning the employment of a particular employee, whether current, former, or prospective.

OBJECTION TO DEFINITION NO. 17:

Because the term “PERSONNEL FILE” does not appear in any of the document requests below, Oracle does not respond regarding this definition at this time.

DEFINITION NO. 18. “POLICIES,” “PRACTICES,” or “PROCEDURES” means each rule, action, or directive, whether formal or informal, and each common understanding or course of conduct that was recognized as such by YOUR present or former officers, agents, employees, or other PERSONS acting or purporting to act on YOUR behalf or at YOUR direction, that was in effect at any time during the RELEVANT TIME PERIOD. These terms include any changes that occurred during the RELEVANT TIME PERIOD.

OBJECTION TO DEFINITION NO. 18:

Due to OFCCP’s lack of clarification or limitation, Oracle objects to this definition as including the phrases “common understanding” and “course of conduct,” which render the definition vague and ambiguous. Oracle further objects to this definition as overbroad, unduly burdensome and oppressive, and encompassing documents not relevant to any party’s claim or

defense nor proportional to the needs of the case. Oracle further objects to this definition to the extent it seeks documents that are not relevant to the discriminatory conduct allegedly engaged in at Oracle's Redwood Shores, CA, location within the Product Development, Support and Information Technology job functions. Accordingly, and in light of OFCCP's Instruction No. 1, which provides "Unless otherwise stated, these requests relate to Oracle's POLICIES, PRACTICES, or PROCEDURES that apply at its headquarters located at Redwood Shores, California" Oracle's responses, objections, and production are limited to documents "relate[d] to Oracle's POLICIES, PRACTICES, or PROCEDURES that apply at its headquarters located at Redwood Shores, California" and which pertain to the Product Development, Support and Information Technology job functions.

DEFINITION NO. 19. "RELATING TO" means constituting, memorializing, evidencing, containing, showing, supporting, contradicting, summarizing, pertaining to, or referring to, whether directly or indirectly, the subject of the particular request.

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RESPONSES TO REQUESTS FOR PRODUCTION OF DOCUMENTS

REQUEST FOR PRODUCTION NO. 1:

DOCUMENTS, including but not limited to ORGANIZATIONAL CHARTS or lists, sufficient to identify YOUR organizational structure for the Support, Product Development, and Information Technology lines of business or job functions during the RELEVANT TIME PERIOD, including identifying by name and job title, any and all PERSON(S) that are officers, executives, and all levels of management within each job function or line of business, including reporting relationships between PERSONS.

RESPONSE TO REQUEST FOR PRODUCTION NO. 1:

Oracle incorporates by reference its Objections to Specific Definitions set forth above. Based on its meet and confer conversations with OFCCP, Oracle limits its objections based on vagueness and ambiguity to the terms: “all levels of management,” and “reporting relationships.” Oracle maintains its objections to this request as overbroad in scope, unduly burdensome, oppressive, and encompassing documents not relevant to any party’s claim or defense nor proportional to the needs of the case.

However, subject to and without waiving these objections, Oracle responds:

As identified in separate correspondence, Oracle has produced documents responsive to this request for the period January 1, 2013 through December 31, 2014. Subject to the ALJ Relevant Period, Oracle is amenable to producing similar reports for 2015, 2016, and 2017 with sufficient information to identify management within the Support, Product Development and Information Technology job functions at its Redwood Shores, CA location.

REQUEST FOR PRODUCTION NO. 2:

DOCUMENTS, including but not limited to ORGANIZATIONAL CHARTS or lists, sufficient to identify any and all PERSON(S), by name and job title, with authority to affect a COLLEGE RECRUIT’s disposition or HIRING, including PERSONS participating in job fairs, evaluating or screening expressions of interest, resumes and other application DOCUMENTS,

interviewing applicants, making recommendations whether to hire applicants, and approving hires for positions in the Professional Technical I, Individual Contributor (“PT1”) job group or Product Development line of business during the RELEVANT TIME PERIOD.

RESPONSE TO REQUEST FOR PRODUCTION NO. 2:

Oracle incorporates by reference its Objections to Specific Definitions set forth above. Oracle maintains its objection to this request on the grounds that it is vague and ambiguous, including but not limited to the phrases “authority to affect” and “expressions of interest.” Oracle further objects to this request as overbroad in scope, unduly burdensome, oppressive, and encompassing documents not relevant to any party’s claim or defense nor proportional to the needs of the case.

However, subject to and without waiving these objections, Oracle responds:

Oracle will, after conducting a reasonably diligent search, produce responsive, non-privileged documents in its possession, custody or control with sufficient information to identify individuals within the Human Resources Department responsible for college recruiting for the PT1 job group at Oracle’s Redwood Shores, CA, location during the ALJ Relevant Period.

REQUEST FOR PRODUCTION NO. 3:

DOCUMENTS, including but not limited to ORGANIZATIONAL CHARTS or lists, sufficient to identify any and all PERSON(S) by name and job title, involved in determining YOUR budget for PERSONNEL costs (i.e., budget for determining number of hires, starting salaries, promotions, any other changes in COMPENSATION, transfers, demotions, layoffs, and all other costs associated with PERSONNEL) during the RELEVANT TIME PERIOD, including but not limited to identifying any and all PERSON(S), by name and job title, with knowledge of how YOU define and determine the “Headcount” term YOU used in YOUR responses to OFCCP during the COMPLIANCE REVIEW.

RESPONSE TO REQUEST FOR PRODUCTION NO. 3:

Oracle incorporates by reference its Objections to Specific Definitions set forth above.

Oracle maintains its objections to this request on the grounds that it is vague and ambiguous, including but not limited to the phrases “sufficient to identify” and “involved in determining,” as well as the terms “budget” and “headcount.” Oracle further objects to this request as overbroad in scope, unduly burdensome, oppressive, and encompassing documents not relevant to any party’s claim or defense nor proportional to the needs of the case.

However, subject to and without waiving these objections, Oracle responds:

After conducting a reasonably diligent search, Oracle does not keep documents in the manner contemplated by this Request, whereby specific individuals involved in certain decisions are specifically identified by name. However, Oracle will produce an approval matrix that indicates various levels of approval necessary for certain actions related to PERSONNEL COSTS.

REQUEST FOR PRODUCTION NO. 4:

DOCUMENTS, including but not limited to ORGANIZATIONAL CHARTS or lists, sufficient to identify any and all PERSON(S), by name and job title, involved in determining how, once established, funds allocated in YOUR PERSONNEL budget are distributed within the Product Development, Information Technology, and Support lines of business or job functions, including the distributions to executives, managers or anyone else for further distribution, and distribution of the budget to any team, division, or group within these lines of business.

RESPONSE TO REQUEST FOR PRODUCTION NO. 4:

Oracle incorporates by reference its Objections to Specific Definitions set forth above. Oracle maintains its objections to this request on the grounds that it is vague and ambiguous, including but not limited to the phrases “funds allocated,” as well as the terms “budget” and “distribution[s].” Oracle further objects to this request as overbroad in scope, unduly burdensome, oppressive, and encompassing documents not relevant to any party’s claim or defense nor proportional to the needs of the case.

Subject to and without waiving these objections, Oracle responds:

After conducting a reasonably diligent search, Oracle does not keep documents in the manner contemplated by this Request, whereby specific individuals involved in certain decisions are specifically identified by name. However, Oracle will produce an approval matrix that indicates various levels of personnel involved in certain distributions of funds.

REQUEST FOR PRODUCTION NO. 5:

All COMMUNICATIONS relating to OFCCP'S REQUESTS FOR DATA.

RESPONSE TO REQUEST FOR PRODUCTION NO. 5:

Oracle incorporates by reference its Objections to Specific Definitions set forth above. Oracle maintains its objections to this request as overbroad in scope, unduly burdensome, oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case. In particular, this request seeks "All COMMUNICATIONS relating to OFCCP's REQUESTS FOR DATA," regardless of whether those requests, let alone the communications related to those requests, are relevant to this litigation. Not all requested data pertains to the claims at issue here, which were the subject of OFCCP's Notice of Violation.

OFCCP's Amended Complaint makes specific reference to three REQUESTS FOR DATA that Oracle allegedly refused to respond to; namely: OFCCP's requests for Oracle's "prior year compensation data for all employees and complete hiring data for PT1 roles during the review period of January 1, 2013 through June 30, 2014"; "any material demonstrating whether or not [Oracle] had performed an in-depth review of its compensation practices, the findings of any such review, and the reporting and corrective actions proposed as a result of such review"; and "any evidence that [Oracle] conducted an adverse impact analyses [sic] required by 41 C.F.R. §§ 60-3.15A and 60-3.4." See Amended Complaint ¶¶ 12-13. OFCCP has made no attempt to tailor the subject matter of the request to only those REQUESTS FOR DATA at issue in this litigation, and has not explained how all communications relating to OFCCP's REQUESTS FOR DATA are relevant to this litigation. Accordingly, communications related to

OFCCP's Requests that are outside these topics are not relevant to OFFCP's claim, and Oracle objects to producing any documents that are not related to these topics. Oracle further objects to this request to the extent it seeks information protected by the attorney-client privilege or the attorney work product doctrine.

Subject to and without waiving these objections, Oracle responds:

As discussed during the meet and confer process, Oracle will, after conducting a reasonably diligent search, utilizing reasonable search parameters that limit the scope of the search to materials created on or before the Notice of Violation, produce responsive, non-privileged documents in its possession, custody or control.

REQUEST FOR PRODUCTION NO. 6:

All COMMUNICATIONS relating to the preparation of YOUR responses (regardless of whether YOU furnished information or objected) to OFCCP'S REQUESTS FOR DATA.

RESPONSE TO REQUEST FOR PRODUCTION NO. 6:

Oracle incorporates by reference its Objections to Specific Definitions set forth above. Oracle maintains its objections to this request as overbroad in scope, unduly burdensome, oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case. Oracle also maintains its objection that this request is cumulative, specifically of OFCCP's Request for Production No. 5, which Oracle understands as subsuming this request.

OFCCP's Amended Complaint makes specific reference to three REQUESTS FOR DATA that Oracle allegedly refused to respond to; namely: OFFCP's requests for Oracle's "prior year compensation data for all employees and complete hiring data for PT1 roles during the review period of January 1, 2013 through June 30, 2014"; "any material demonstrating whether or not [Oracle] had performed an in-depth review of its compensation practices, the findings of any such review, and the reporting and corrective actions proposed as a result of such review"; and "any evidence that [Oracle] conducted an adverse impact analyses [sic] required by

41 C.F.R. §§ 60-3.15A and 60-3.4.” See Amended Complaint ¶¶ 12-13. OFCCP has made no attempt to tailor the subject matter of the request to only those REQUESTS FOR DATA at issue in this litigation, and has not explained how all communications relating to Oracle’s preparation of responses to OFCCP’s REQUESTS FOR DATA are relevant to this litigation. Nor has OFCCP explained why it needs internal communications related to those REQUESTS FOR DATA where Oracle did in fact furnish information in response. Accordingly, communications related to OFCCP’s Requests that are outside these topics are not relevant to OFFCP’s claim, and Oracle objects to producing any documents that are not related to these topics. Oracle further objects to this request to the extent it seeks information protected by the attorney-client privilege or the attorney work product doctrine.

Subject to and without waiving these objections, Oracle responds:

As discussed during the meet and confer process, Oracle will, after conducting a reasonably diligent search and utilizing reasonable search parameters that limit the scope of the search to materials created on or before the Notice of Violation, produce responsive, non-privileged documents in its possession, custody or control.

REQUEST FOR PRODUCTION NO. 7:

All COMMUNICATIONS relating to feasibility (i.e., YOUR ability and efforts to collect information, including but not limited to data or fields of data) in response to OFCCP’S REQUESTS FOR DATA.

RESPONSE TO REQUEST FOR PRODUCTION NO. 7:

Oracle incorporates by reference its Objections to Specific Definitions set forth above. Oracle maintains its objections to this request as overbroad in scope, unduly burdensome, oppressive, and encompassing documents not relevant to any party’s claim or defense nor proportional to the needs of the case. Oracle also maintains its objection that this request is cumulative, specifically of OFCCP’s Request for Production No. 5, which Oracle understands as subsuming this request.

OFCCP's Amended Complaint makes specific reference to three REQUESTS FOR DATA that Oracle allegedly refused to respond to; namely: OFFCP's requests for Oracle's "prior year compensation data for all employees and complete hiring data for PT1 roles during the review period of January 1, 2013 through June 30, 2014"; "any material demonstrating whether or not [Oracle] had performed an in-depth review of its compensation practices, the findings of any such review, and the reporting and corrective actions proposed as a result of such review"; and "any evidence that [Oracle] conducted an adverse impact analyses [sic] required by 41 C.F.R. §§ 60-3.15A and 60-3.4." See Amended Complaint ¶¶ 12-13. OFCCP has made no attempt to tailor the subject matter of the request to only those REQUESTS FOR DATA at issue in this litigation, and has not explained how all communications relating to the feasibility of responding to all of OFCCP's REQUESTS FOR DATA are relevant to this litigation. Accordingly, communications related to OFCCP's Requests that are outside these topics are not relevant to OFFCP's claim, and Oracle objects to producing any documents that are not related to these topics. Oracle further objects to this request to the extent it seeks information protected by the attorney-client privilege or the attorney work product doctrine.

Subject to and without waiving these objections, Oracle responds:

Oracle will, after conducting a reasonably diligent search and utilizing reasonable search parameters that limit the scope of the search to materials created on or before the Notice of Violation, produce responsive, non-privileged documents in its possession, custody or control.

REQUEST FOR PRODUCTION NO. 8:

All DOCUMENTS and COMMUNICATIONS relating to POLICIES, PRACTICES, or PROCEDURES, for YOUR preparation of Affirmative Action Programs ("AAP"), as described in 41 C.F.R. § 60-2.10, for the RELEVANT TIME PERIOD.

RESPONSE TO REQUEST FOR PRODUCTION NO. 8:

Oracle incorporates by reference its Objections to Specific Definitions set forth above. Based on discussions during the meet and confer process, Oracle maintains its objections to this

request as overbroad in scope, unduly burdensome, oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case. Oracle further objects to this request to the extent it seeks information protected by the attorney-client privilege or the attorney work product doctrine. Oracle further objects to this request on the ground that it calls for a legal conclusion; specifically, as Oracle noted in its meet and confer letter dated June 9, 2017, this request, by referring to a regulation, requires Oracle to read, research, and apply the regulation to the request, which inherently requires a legal analysis of the regulation and its applicability.

However, subject to and without waiving these objections, Oracle responds:

Oracle will, after conducting a reasonably diligent search produce responsive, non-privileged policies, practices, and procedures for its Affirmative Action Program that are in its possession, custody or control.

REQUEST FOR PRODUCTION NO. 9:

All DOCUMENTS and COMMUNICATIONS relating to YOUR POLICIES, PRACTICES, or PROCEDURES, for responding to OFCCP'S REQUESTS FOR DATA during compliance reviews, including but not limited to the particular COMPLIANCE REVIEW period cited herein.

RESPONSE TO REQUEST FOR PRODUCTION NO. 9:

Oracle incorporates by reference its Objections to Specific Definitions set forth above. Based on discussions during the meet and confer process, Oracle maintains its objections to this request on the grounds that it is vague and ambiguous, including but not limited to the phrases "responses," "compliance reviews," and "including but not limited to the particular COMPLIANCE REVIEW period cited herein." Oracle further objects to this request as overbroad in scope, unduly burdensome, oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case. Oracle further objects to this request to the extent it seeks information protected by the attorney-client privilege or the

attorney work product doctrine.

Subject to and without waiving these objections, Oracle responds:

Based on Oracle's meet and confer discussions with the OFCCP, it is Oracle's understanding that this request seeks any materials that could be reasonably described as Oracle's written policies, practices, or procedures for responding to OFCCP's REQUESTS FOR DATA. Subject to that understanding and after undertaking a reasonably diligent search, Oracle has determined that it does not have such responsive documents in its possession, custody or control.

REQUEST FOR PRODUCTION NO. 10:

All DOCUMENTS and COMMUNICATIONS relating to YOUR POLICIES, PRACTICES, or PROCEDURES, for determining how YOU define an "applicant" as that term is used in YOUR responses to OFCCP'S REQUESTS FOR DATA during compliance reviews, including but not limited to the particular COMPLIANCE REVIEW period cited herein. This includes, but is not limited to, all DOCUMENTS and COMMUNICATIONS relating to how YOU determine which PERSONS to include and exclude as an "applicant," what factors go into this determination, and identifying any and all PERSON(S) involved in making this determination.

RESPONSE TO REQUEST FOR PRODUCTION NO. 10:

Oracle incorporates by reference its Objections to Specific Definitions set forth above. Oracle further objects to this request as overbroad in scope, unduly burdensome, oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case. Oracle further objects to this request to the extent it seeks information protected by the attorney-client privilege or the attorney work product doctrine.

Subject to and without waiving these objections, Oracle responds:

Based on Oracle's meet and confer discussions with the OFCCP, it is Oracle's understanding that this request seeks any materials that could be reasonably described as written

policies, practices, or procedures providing guidance to Oracle's compliance team as to how to define the term "applicant" in the particular context of responding to OFCCP's REQUESTS FOR DATA. Subject to that understanding and after undertaking a reasonably diligent search, Oracle has determined that it does not have such responsive documents in its possession, custody or control.

REQUEST FOR PRODUCTION NO. 11:

All DOCUMENTS and COMMUNICATIONS that define or describe YOUR DOCUMENT and data retention POLICIES, PRACTICES, or PROCEDURES, relating to any and all PERSONS expressing an interest in an Oracle job (whether or not such PERSONS eventually applied for said job) during the RELEVANT TIME PERIOD.

RESPONSE TO REQUEST FOR PRODUCTION NO. 11:

Oracle incorporates by reference its Objections to Specific Definitions set forth above. Oracle further objects to this request on the grounds that it is vague and ambiguous, including but not limited to the phrases "data retention" and "expressing an interest." Oracle further objects to this request as overbroad in scope, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case. Oracle further objects to this request to the extent it seeks information protected by the attorney-client privilege or the attorney work product doctrine.

Subject to and without waiving these objections, Oracle responds:

Oracle has produced its Records Management Policy and Retention Schedules, which in addition to being responsive to Nos. 49 and 50 of OFCCP's Requests for Production, are responsive to this request.

REQUEST FOR PRODUCTION NO. 12:

All user manuals and training materials for YOUR Compensation Workbench system.

RESPONSE TO REQUEST FOR PRODUCTION NO. 12:

Oracle incorporates by reference its Objections to Specific Definitions set forth above.

Based on its meet and confer conversations with OFCCP, Oracle withdraws its objections based on vagueness and ambiguity. Oracle maintains its objections to this request as overbroad in scope and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case.

Subject to and without waiving these objections, Oracle responds:

Oracle will, after conducting a reasonably diligent search, produce responsive, non-privileged manuals and training materials in its possession, custody or control for its Compensation Workbench system for the ALJ Relevant Period.

REQUEST FOR PRODUCTION NO. 13:

All user manuals and training materials for YOUR I-Recruitment system.

RESPONSE TO REQUEST FOR PRODUCTION NO. 13:

Oracle incorporates by reference its Objections to Specific Definitions set forth above. Based on its meet and confer conversations with OFCCP, Oracle withdraws its objections based on vagueness and ambiguity. Oracle maintains its objections to this request as overbroad in scope and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case.

Subject to and without waiving its objections, Oracle responds:

Oracle will, after conducting a reasonably diligent search, produce responsive, non-privileged manuals and training materials in its possession, custody or control for its iRecruitment system for the ALJ Relevant Period.

REQUEST FOR PRODUCTION NO. 14:

All user manuals and training materials for YOUR system for tracking HIRING for COLLEGE RECRUITS.

RESPONSE TO REQUEST FOR PRODUCTION NO. 14:

Oracle incorporates by reference its Objections to Specific Definitions set forth above. Based on its meet and confer conversations with OFCCP, Oracle withdraws its objections based

on vagueness and ambiguity. Oracle maintains its objections to this request as overbroad in scope and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case.

Subject to and without waiving its objections, Oracle responds:

Oracle will produce responsive, non-privileged manuals and training materials for its Resumate system used to track hiring of COLLEGE RECRUITS for the ALJ Relevant Period.

REQUEST FOR PRODUCTION NO. 15:

All user manuals and training materials for YOUR Taleo system.

RESPONSE TO REQUEST FOR PRODUCTION NO. 15:

Oracle incorporates by reference its Objections to Specific Definitions set forth above. Based on its meet and confer conversations with OFCCP, Oracle withdraws its objections based on vagueness and ambiguity. Oracle maintains its objections to this request as overbroad in scope and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case.

Subject to and without waiving its objections, Oracle responds:

Taleo was not operational during the period covered by the COMPLIANCE REVIEW, and accordingly, Oracle does not have any documents responsive to this request based on what Oracle contends is the relevant period of this litigation. However, subject to Judge Larsen's ruling on the relevant period of the litigation, Oracle will produce responsive, non-privileged manuals and training materials in its possession, custody or control for its Taleo system for the ALJ Relevant Period.

REQUEST FOR PRODUCTION NO. 16:

All DOCUMENTS and COMMUNICATIONS relating to YOUR POLICIES, PRACTICES, or PROCEDURES for HIRING COLLEGE RECRUITS during the RELEVANT TIME PERIOD, including but not limited to all DOCUMENTS and COMMUNICATIONS relating to any criteria that YOU used to evaluate applicants at any stage (i.e., screening,

interview, post-interview) of the application process.

RESPONSE TO REQUEST FOR PRODUCTION NO. 16:

Oracle incorporates by reference its Objections to Specific Definitions set forth above. Oracle maintains its objections to this request on the grounds that it is overbroad in scope, unduly burdensome, oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case.

Subject to and without waiving these objections, Oracle responds:

Oracle will produce responsive, non-privileged documents in its possession, custody or control for the PT1 job group at Oracle's Redwood Shores, CA, location during the ALJ Relevant Period.

REQUEST FOR PRODUCTION NO. 17:

All DOCUMENTS and COMMUNICATIONS exchanged between YOU and all domestic colleges and universities relating to HIRING COLLEGE RECRUITS during the RELEVANT TIME PERIOD. This includes all DOCUMENTS and COMMUNICATIONS exchanged between YOU and college and university career services, AFFINITY GROUPS, and any other organizations whose members include college and university students and alumni.

RESPONSE TO REQUEST FOR PRODUCTION NO. 17:

Oracle incorporates by reference its Objections to Specific Definitions set forth above. Oracle maintains its objections to this request on the grounds that it is vague and ambiguous, including but not limited to the phrases "career services," and "any other organizations." Oracle further objects to this request as overbroad in scope, unduly burdensome, oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case.

When Oracle served its Initial Responses, it indicated that subject to and without waiving its objections it was, after conducting a reasonably diligent search and utilizing reasonable search parameters, willing to produce responsive, non-privileged documents related to the PT1 group

from the period of January 1, 2013 through June 30, 2014. However, given the initial state of the litigation, Oracle did not have a full understanding at that time of the incredible burden associated with searching for and reviewing all of the many thousands of emails that are potentially related to this request. Since its Initial Responses, Oracle has gained a greater appreciation for the incredibly burdensome nature of this request, and now that Judge Larsen's forthcoming ruling on the relevant period has the potential to dramatically increase the pool of documents for Oracle's search and review process, that burden will only magnify. Moreover, the Amended Complaint makes clear that OFCCP's findings of discrimination are based upon statistical analyses it claims to have conducted based on applicant, hire and compensation data submitted by Oracle in the compliance review. OFCCP has not demonstrated the documents and emails sought in this request are relevant to those claims, let alone shown the documents and emails are more relevant, and not cumulative and duplicative of, the massive amounts of material OFCCP already gathered from Oracle in the underlying compliance review. *See* Fed. R. Civ. P. 26(b)(2)(C) (providing that discovery should be limited to the extent that it is "unreasonably cumulative or duplicative, or can be obtained from some other source that is more convenient, less burdensome or less expensive").

Although it objects to this request for the reasons stated above, Oracle is willing to continue the meet and confer process with OFCCP to determine how to respond to this request in a manner that is consistent with and proportionate to the needs of the case, including but not limited to Oracle potentially producing responsive documents from a reasonably limited sample period of time within the ALJ Relevant Period.

REQUEST FOR PRODUCTION NO. 18:

All DOCUMENTS and COMMUNICATIONS exchanged between YOU and any internal or external recruiter for YOU relating to HIRING COLLEGE RECRUITS during the RELEVANT TIME PERIOD.

RESPONSE TO REQUEST FOR PRODUCTION NO. 18:

Oracle incorporates by reference its Objections to Specific Definitions set forth above. As discussed during the meet and confer process, Oracle maintains its objections to this request as overbroad in scope, unduly burdensome, oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case.

When Oracle served its Initial Responses, it indicated that subject to and without waiving its objections it was, after conducting a reasonably diligent search and utilizing reasonable search parameters, willing to produce responsive, non-privileged documents related to the PT1 group from the period of January 1, 2013 through June 30, 2014. However, given the initial state of the litigation, Oracle did not have a full understanding at that time of the incredible burden associated with searching for and reviewing all of the many thousands of emails that are potentially related to this request. Since its Initial Responses, Oracle has gained a greater appreciation for the incredibly burdensome nature of this request, and now that Judge Larsen's forthcoming ruling on the relevant period has the potential to dramatically increase the pool of documents for Oracle's search and review process, that burden will only magnify. Moreover, the Amended Complaint makes clear that OFCCP's findings of discrimination are based upon statistical analyses it claims to have conducted based on applicant, hire and compensation data submitted by Oracle in the compliance review. OFCCP has not demonstrated the documents and emails sought in this request are relevant to those claims, let alone shown the documents and emails are more relevant, and not cumulative and duplicative of, the massive amounts of material OFCCP already gathered from Oracle in the underlying compliance review. *See* Fed. R. Civ. P. 26(b)(2)(C) (providing that discovery should be limited to the extent that it is "unreasonably cumulative or duplicative, or can be obtained from some other source that is more convenient, less burdensome or less expensive").

Although it objects to this request for the reasons stated above, Oracle is willing to continue the meet and confer process with OFCCP to determine how to respond to this request in

a manner that is consistent with and proportionate to the needs of the case, including but not limited to Oracle potentially producing responsive documents from a reasonably limited sample period of time within the ALJ Relevant Period.

REQUEST FOR PRODUCTION NO. 19:

All DOCUMENTS and COMMUNICATIONS exchanged between YOU and all international colleges and universities relating to HIRING COLLEGE RECRUITS during the RELEVANT TIME PERIOD. This includes all DOCUMENTS and COMMUNICATIONS exchanged between YOU and college and university career services, AFFINITY GROUPS, and any other organizations whose members include college and university students and alumni.

RESPONSE TO REQUEST FOR PRODUCTION NO. 19:

Oracle incorporates by reference its Objections to Specific Definitions set forth above. Oracle maintains its objections to this request on the grounds that it is vague and ambiguous, including but not limited to the phrases “all international colleges and universities,” “career services,” and “any other organizations.” Oracle further objects to this request as overbroad in scope, unduly burdensome, oppressive, and encompassing documents not relevant to any party’s claim or defense nor proportional to the needs of the case.

Subject to and without waiving these objections, Oracle responds:

Oracle will, after conducting a reasonably diligent search and utilizing reasonable search parameters, produce responsive, non-privileged documents in its possession, custody or control for the PT1 job group at Oracle’s Redwood Shores, CA, location during the ALJ Relevant Period.

REQUEST FOR PRODUCTION NO. 20:

All DOCUMENTS and COMMUNICATIONS relating to “Good Faith Efforts (GFEs) in the U.S. to reach out to interested women and minorities” for any PT1 job group positions and all positions within the Product Development line of business during the RELEVANT TIME PERIOD, as stated in YOUR letter to OFCCP dated October 31, 2016.

RESPONSE TO REQUEST FOR PRODUCTION NO. 20:

Oracle incorporates by reference its Objections to Specific Definitions set forth above. Following its meet and confer conversations with OFCCP, Oracle maintains its objections that this request mischaracterizes its October 31, 2016 letter as the quoted language is taken out of context and refers only to PT1 job group positions and not Product Development. Oracle further objects to this request as overbroad in scope, unduly burdensome, and oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case. Oracle further objects to this request to the extent it seeks information protected by the attorney-client privilege or the attorney work product doctrine.

Subject to and without waiving these objections, Oracle responds:

Oracle will, after conducting a reasonably diligent search and utilizing reasonable search parameters, produce responsive, non-privileged documents in its possession, custody or control for the PT1 job group at Oracle's Redwood Shores, CA, location during the ALJ Relevant Period.

REQUEST FOR PRODUCTION NO. 21:

All DOCUMENTS and COMMUNICATIONS relating to efforts to recruit PERSONS internationally for any PT1 job group positions and all positions within the Product Development line of business during the RELEVANT TIME PERIOD.

RESPONSE TO REQUEST FOR PRODUCTION NO. 21:

Oracle incorporates by reference its Objections to Specific Definitions set forth above. Following its meet and confer conversations with OFCCP, Oracle maintains its objections to this request on the grounds that it is vague and ambiguous, including but not limited to the term "recruit". Oracle further objects to this request as overbroad in scope, unduly burdensome, oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case.

Subject to and without waiving these objections, Oracle responds:

Oracle will, after conducting a reasonably diligent search and utilizing reasonable search parameters, produce responsive, non-privileged documents in its possession, custody or control for the PT1 job group at Oracle's Redwood Shores, CA, location during the ALJ Relevant Period.

REQUEST FOR PRODUCTION NO. 22:

All notes or records of interviews, whether by phone or in-person (including but not limited to memos, emails, and text messages), of COLLEGE RECRUITS who were interviewed during the RELEVANT TIME PERIOD.

RESPONSE TO REQUEST FOR PRODUCTION NO. 22:

Oracle incorporates by reference its Objections to Specific Definitions set forth above. Following its meet and confer conversations with OFCCP, Oracle maintains its objections to this request on the grounds that it is vague and ambiguous, including but not limited to the terms "notes" and "records." Oracle further objects to this request as overbroad in scope, unduly burdensome, oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case.

When Oracle served its Initial Responses, it indicated that subject to and without waiving its objections it was, after conducting a reasonably diligent search and utilizing reasonable search parameters, willing to produce responsive, non-privileged documents related to the PT1 group from the period of January 1, 2013 through June 30, 2014. However, given the initial state of the litigation, Oracle did not have a full understanding at that time of the incredible burden associated with searching for and reviewing all of the many thousands of emails that are potentially related to this request. Since its Initial Responses, Oracle has gained a greater appreciation for the incredibly burdensome nature of this request, and now that Judge Larsen's forthcoming ruling on the relevant period has the potential to dramatically increase the pool of documents for Oracle's search and review process, that burden will only magnify. Moreover, the Amended Complaint makes clear that OFCCP's findings of discrimination are based upon

statistical analyses it claims to have conducted based on applicant, hire and compensation data submitted by Oracle in the compliance review. OFCCP has not demonstrated the documents sought in this request are relevant to those claims, let alone shown the documents are more relevant, and not cumulative and duplicative of, the massive amounts of material OFCCP already gathered from Oracle in the underlying compliance review. *See* Fed. R. Civ. P. 26(b)(2)(C) (providing that discovery should be limited to the extent that it is “unreasonably cumulative or duplicative, or can be obtained from some other source that is more convenient, less burdensome or less expensive”).

Although it objects to this request for the reasons stated above, Oracle is willing to continue the meet and confer process with OFCCP to determine how to respond to this request in a manner that is consistent with and proportionate to the needs of the case, including but not limited to Oracle potentially producing responsive documents from a reasonably limited sample period of time and a reasonably limited number of affected persons within the ALJ Relevant Period.

REQUEST FOR PRODUCTION NO. 23:

All DOCUMENTS and COMMUNICATIONS (including but not limited to memos, emails, text messages) stating, summarizing, supporting, or explaining YOUR decision on a disposition of an expression of interest or application at any point of the HIRING process from a COLLEGE RECRUIT during the RELEVANT TIME PERIOD.

RESPONSE TO REQUEST FOR PRODUCTION NO. 23:

Oracle incorporates by reference its Objections to Specific Definitions set forth above. During its meet and confer conversations with OFCCP, Oracle received no clarification or modification to this request, and Oracle maintains its objections to this request on the grounds that it is vague and ambiguous, including but not limited to the terms “disposition” and “application” as well as the phrase “expression of interest.” Oracle further objects to this request as overbroad in scope, unduly burdensome, oppressive, and encompassing documents not

relevant to any party's claim or defense nor proportional to the needs of the case. Oracle further objects to this request to the extent it seeks information protected by the attorney-client privilege or the attorney work product doctrine.

Subject to and without waiving these objections, Oracle responds:

Oracle will, after conducting a reasonably diligent search and utilizing reasonable search parameters, produce responsive, non-privileged documents in its possession, custody or control for the PT1 job group at Oracle's Redwood Shores, CA, location during the ALJ Relevant Period.

REQUEST FOR PRODUCTION NO. 24:

All COMMUNICATIONS (including but not limited to memos, emails and text messages) to and from Larry Lynn, Vice President, College Recruiting, relating to HIRING COLLEGE RECRUITS during the RELEVANT TIME PERIOD.

RESPONSE TO REQUEST FOR PRODUCTION NO. 24:

Oracle incorporates by reference its Objections to Specific Definitions set forth above. During the meet and confer process, Oracle explained its overbreadth and relevance objections and requested that OFCCP narrow or clarify this request. OFCCP provided no meaningful guidance and implied that virtually all of Mr. Lynn's communications should be produced.¹ OFCCP also declined to engage in any meaningful discussion of reasonable search terms Oracle could use to limit this request to documents relevant to this litigation. Accordingly, Oracle maintains its objections to this request as overbroad in scope, unduly burdensome, oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case. Oracle further objects to this request to the extent it seeks information protected by the attorney-client privilege or the attorney work product doctrine.

As Oracle explained to OFCCP during the meet and confer process, Oracle has collected

¹ During the meet and confer process, when asked to provide examples of documents that would not be considered responsive to Request for Production Nos. 24 and 25, OFCCP gave the examples of "scheduling a drink" or an email about "going to a bar," but provided no other examples or criteria.

over 61,000 emails from Larry Lynn alone and, of those emails, around 46,000 date from January 1, 2013, to the present. While OFCCP's request ostensibly limits the documents to be produced from this set to only those "related to HIRING COLLEGE RECRUITS," in practice, it does very little to narrow the scope of this burdensome and disproportionate request. Mr. Lynn is Oracle's Vice President in charge of hiring college recruits, and it stands to reason that a very significant percentage of his email and other correspondence is related in some way to hiring college recruits. As noted above, requests that seek "all communications" or "all email" from a party and/or individual without any meaningful limitations are disfavored.

When Oracle served its Initial Responses, it indicated that subject to and without waiving its objections it was, after conducting a reasonably diligent search and utilizing reasonable search parameters, willing to produce responsive, non-privileged documents related to the PT1 group from the period of January 1, 2013 through June 30, 2014. However, given the initial state of the litigation, Oracle did not have a full understanding at that time of the incredible burden associated with searching for and reviewing all of the many thousands of emails that are potentially related to this request. Since its Initial Responses, Oracle has gained a greater appreciation for the incredibly burdensome nature of this request, and now that Judge Larsen's forthcoming ruling on the relevant period has the potential to dramatically increase the pool of documents for Oracle's search and review process, that burden will only magnify. Moreover, the Amended Complaint makes clear that OFCCP's findings of discrimination are based upon statistical analyses it claims to have conducted based on applicant, hire and compensation data submitted by Oracle in the compliance review. OFCCP has not demonstrated the emails sought in this request are relevant to those claims, let alone shown the emails are more relevant, and not cumulative and duplicative of, the massive amounts of material OFCCP already gathered from Oracle in the underlying compliance review. *See* Fed. R. Civ. P. 26(b)(2)(C) (providing that discovery should be limited to the extent that it is "unreasonably cumulative or duplicative, or can be obtained from some other source that is more convenient, less burdensome or less

expensive”).

Although it objects to this request for the reasons stated above, Oracle is willing to continue the meet and confer process with OFCCP to determine how to respond to this request in a manner that is consistent with and proportionate to the needs of the case, including but not limited to Oracle potentially producing responsive documents from a reasonably limited sample period of time within the ALJ Relevant Period.

REQUEST FOR PRODUCTION NO. 25:

All COMMUNICATIONS (including but not limited to memos, emails and text messages) to and from Chantal Dumont, Senior Director, College Recruiting, relating to HIRING COLLEGE RECRUITS during the RELEVANT TIME PERIOD.

RESPONSE TO REQUEST FOR PRODUCTION NO. 25:

Oracle incorporates by reference its Objections to Specific Definitions set forth above. Similar to Request for Production No. 24, Oracle explained its overbreadth and relevance objections to OFCCP during the meet and confer process. OFCCP provided no meaningful guidance and implied that virtually all of Ms. Dumont’s communications should be produced. OFCCP also declined to engage in any meaningful discussion of reasonable search terms Oracle could use to limit this request to documents relevant to this litigation. Accordingly, Oracle maintains its objections to this request as overbroad in scope, unduly burdensome, oppressive, and encompassing documents not relevant to any party’s claim or defense nor proportional to the needs of the case. Oracle further objects to this request to the extent it seeks information protected by the attorney-client privilege or the attorney work product doctrine.

As Oracle explained during the meet and confer process, Oracle has collected over 41,000 emails from Ms. Dumont that date from January 1, 2013, to the present. Oracle objects to this request for the same reasons set forth in its objections to Request for Production No. 24; while OFCCP’s request ostensibly limits the documents to be produced from this set to only those “related to HIRING COLLEGE RECRUITS,” in practice, it does very little to narrow the

scope of this burdensome and disproportionate request because Ms. Dumont is Oracle's Senior Director in charge of hiring college recruits.

When Oracle served its Initial Responses, it indicated that subject to and without waiving its objections it was, after conducting a reasonably diligent search and utilizing reasonable search parameters, was willing to produce responsive, non-privileged documents related to the PT1 group from the period of January 1, 2013 through June 30, 2014. However, given the initial state of the litigation, Oracle did not have a full understanding at that time of the incredible burden associated with searching for and reviewing all of the many thousands of emails that are potentially related to this request. Since its Initial Responses, Oracle has gained a greater appreciation for the incredibly burdensome nature of this request, and now that Judge Larsen's forthcoming ruling on the relevant period has the potential to dramatically increase the pool of documents for Oracle's search and review process, that burden will only magnify. Moreover, the Amended Complaint makes clear that OFCCP's findings of discrimination are based upon statistical analyses it claims to have conducted based on applicant, hire and compensation data submitted by Oracle in the compliance review. OFCCP has not demonstrated the emails sought in this request are relevant to those claims, let alone shown the emails are more relevant, and not cumulative and duplicative of, the massive amounts of material OFCCP already gathered from Oracle in the underlying compliance review. *See* Fed. R. Civ. P. 26(b)(2)(C) (providing that discovery should be limited to the extent that it is "unreasonably cumulative or duplicative, or can be obtained from some other source that is more convenient, less burdensome or less expensive").

Although it objects to this request for the reasons stated above, Oracle is willing to continue the meet and confer process with OFCCP to determine how to respond to this request in a manner that is consistent with and proportionate to the needs of the case, including but not limited to Oracle potentially producing responsive documents from a reasonably limited sample period of time within the ALJ Relevant Period.

REQUEST FOR PRODUCTION NO. 26:

All DOCUMENTS and COMMUNICATIONS relating to POLICIES, PRACTICES, or PROCEDURES for YOUR Employee Referral Program.

RESPONSE TO REQUEST FOR PRODUCTION NO. 26:

Oracle incorporates by reference its Objections to Specific Definitions set forth above. Oracle further objects to this request on the grounds that it is vague and ambiguous. Oracle further objects to this request as overbroad in scope, unduly burdensome, oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case. Oracle further objects to this request to the extent it seeks information protected by the attorney-client privilege or the attorney work product doctrine.

Subject to and without waiving these objections, Oracle responds:

Oracle will, after conducting a reasonably diligent search and utilizing reasonable search parameters, produce responsive, non-privileged policies, practices, and procedures for its Employee Referral Program that are in its possession, custody or control for the PT1 job group at Oracle's Redwood Shores, CA, location during the ALJ Relevant Period.

REQUEST FOR PRODUCTION NO. 27:

All DOCUMENTS and COMMUNICATIONS relating to PERSONS who were referred under YOUR Employee Referral Program.

RESPONSE TO REQUEST FOR PRODUCTION NO. 27:

Oracle incorporates by reference its Objections to Specific Definitions set forth above. Due to OFCCP's lack of clarification or limitation, Oracle maintains its objections to this request on the grounds that it is vague and ambiguous, including but not limited to the phrase "Employee Referral Program." Oracle further objects to this request as overbroad in scope, unduly burdensome, oppressive, and seeks information that is not relevant to any party's claim or defense nor proportional to the needs of the case. Oracle further objects to this request to the extent it seeks information protected by the attorney-client privilege or the attorney work product

doctrine.

During Oracle's meet and confer calls with OFCCP on both May 24 and May 30, 2017, Oracle explained its objections to this request. Oracle explained that this request is overbroad and should be limited to the PT1 group and by relevant time period. OFCCP initially agreed to provide a new written request that would at least address the relevant time period. To date, OFCCP has not narrowed this request in writing. Accordingly, Oracle maintains its objections and asks again that OFCCP narrows this request and also provide greater specificity regarding what documents it seeks given that the request potentially calls for any and all documents related to an employee who became employed as a result of a referral. If, through this request, OFCCP is actually soliciting data exports, as opposed to documents, related to the individuals who were referred, Oracle requests the amended request make that clear.

REQUEST FOR PRODUCTION NO. 28:

All DOCUMENTS and COMMUNICATIONS relating to PERSONS receiving a bonus or other form of COMPENSATION through YOUR Employee Referral Program.

RESPONSE TO REQUEST FOR PRODUCTION NO. 28:

Oracle incorporates by reference its Objections to Specific Definitions set forth above. Due to OFCCP's lack of clarification or limitation, Oracle maintains its objections to this request on the grounds that it is vague and ambiguous, including but not limited to the phrase "Employee Referral Program." Oracle further objects to this request as overbroad in scope, unduly burdensome, oppressive, and seeks information that is not relevant to any party's claim or defense nor proportional to the needs of the case. Oracle further objects to this request to the extent it seeks information protected by the attorney-client privilege or the attorney work product doctrine.

During Oracle's meet and confer calls with OFCCP on both May 24 and May 30, 2017, Oracle explained its objections to this request. Oracle explained that this request is overbroad and should be limited to the PT1 group and by relevant time period. OFCCP initially agreed to

provide a new written request that would at least address the relevant time period. To date, OFCCP has not narrowed this request in writing. Accordingly, Oracle maintains its objections and asks that OFCCP narrow this request and also provide greater specificity regarding what documents it seeks given that the request potentially calls for any and all documents related to an employee who became employed as a result of a referral. If, through this request, OFCCP is actually soliciting data exports, as opposed to documents, related to the individuals who received referral bonuses (or other compensation resulting from a referral), Oracle requests that the amended request make that clear.

REQUEST FOR PRODUCTION NO. 29:

All DOCUMENTS YOU rely upon or reviewed in making each and every affirmative defense set forth in YOUR ANSWER.

RESPONSE TO REQUEST NO. FOR PRODUCTION 29:

Oracle incorporates by reference its Objections to Specific Definitions set forth above. Due to OFCCP's lack of clarification of limitation, Oracle further objects to this request on the grounds that it is vague and ambiguous, including but not limited to the phrase "rely upon or reviewed." Oracle further objects to this request as overbroad in scope, unduly burdensome, oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case. Oracle further objects to this request to the extent it seeks information protected by the attorney-client privilege or the attorney work product doctrine.

As noted in separate meet and confer correspondence with OFCCP, Oracle's objections arise from OFCCP's demand for not only all documents Oracle relied upon, but "all documents YOU . . . reviewed" when crafting its affirmative defenses. As written, this request extends to attorney mental impressions and even non-relevant documents by encompassing any and all documents that Oracle's counsel may have reviewed but which were not ultimately relied upon or referenced in Oracle's affirmative defenses. Despite Oracle's request for relevant authority, OFCCP has yet to identify any case or situation where a request for all documents that a party

reviewed in drafting its answer or defenses was deemed permissible under Rule 34, and OFCCP has yet to modify or limit this request in any way.

July 12, 2017

GARY R. SINISCALCO
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PROOF OF SERVICE BY ELECTRONIC MAIL

I am more than eighteen years old and not a party to this action. My business address is Orrick, Herrington & Sutcliffe LLP, The Orrick Building, 405 Howard Street, San Francisco, California 94105-2669. My electronic service address is jkaddah@orrick.com.

On July 12, 2017, I served the interested parties in this action with the following document(s):

**DEFENDANT ORACLE AMERICA, INC.'S AMENDED & SUPPLEMENTAL RESPONSES
AND OBJECTIONS TO FIRST SET OF REQUESTS FOR THE PRODUCTION OF
DOCUMENTS**

by serving true copies of these documents via electronic mail in Adobe PDF format the documents listed above to the electronic addresses set forth below:

Marc A. Pilotin (pilotin.marc.a@dol.gov)
Laura Bremer (Bremer.Laura@dol.gov)
Ian Eliasoph (eliasoph.ian@dol.gov)
Jeremiah Miller (miller.jeremiah@dol.gov)
U.S. Department of Labor, Office of the Solicitor, Region IX – San Francisco
90 Seventh Street, Suite 3-700
San Francisco, CA 94103
Telephone: (415) 625-7769
Fax: (415) 625-7772

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on July 12, 2017, at San Francisco, California.

Jacqueline D. Kaddah