

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 SECOND
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.: Two

On March 20, 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") Second 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

DEF. ORACLE AMERICA, INC.'S AMENDED & SUPPLEMENTAL RESPONSES TO REQUEST FOR PRODUCTION OF
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Exhibit P-282

lawsuit. Nothing contained in these responses shall in any way limit Oracle's ability to make all 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.

For the reasons set forth in Oracle's Answer, Oracle's responses and productions responsive to the Requests related to OFCCP's recruiting and hiring claims are limited to Product Development positions in the Professional Technical 1, Individual Contributor ("PT1") job group at Oracle's Redwood Shores, CA, location, and 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.

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 its requests or specify the documents it hopes to obtain is especially glaring in light of OFCCPs' 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.

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. "AMENDED COMPLAINT" means the pleading filed by OFCCP in this action on January 25, 2017.

DEFINITION NO. 5. "And" and "or" shall be construed conjunctively or disjunctively as necessary to make the request inclusive rather than exclusive.

DEFINITION NO. 6. "ANSWER" means the Answer to the AMENDED COMPLAINT filed by YOU in this action on February 8, 2017.

DEFINITION NO. 7. "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. 7:

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. 8. "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. 8:

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. 9. "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. 9:

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. 10. "DATABASE" means any file or collection of information in fielded format that exists in computer-readable form.

OBJECTION TO DEFINITION NO. 10:

Due to OFCCP's lack of clarification or limitation of this term, Oracle objects to this definition as including the phrases "file or collection of information," "fielded format," and "exists in computer-readable form" which render the definition unintelligible, vague, ambiguous, overbroad, unduly burdensome and oppressive, and encompassing information that is neither relevant to any party's claim or defense nor proportional to the needs of the case. Furthermore, the definition is inconsistent with any commonly understood meaning of the term "database." Oracle further objects to this definition to the extent it calls for the production of information that is not relevant to the discriminatory conduct allegedly engaged in at Oracle's Redwood Shores, CA, location during any relevant time frame. Oracle's responses, objections, and production are limited to information related the relevant time periods outlined in the Preliminary Statement above.

DEFINITION NO. 11. "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. 11:

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. 12. “EXPERIENCED RECRUIT” means a PERSON who expresses interest or applies to YOU through the requisition process for technical (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, and who is not already employed by YOU.

OBJECTION TO DEFINITION NO. 12:

Due to OFCCP’s lack of clarification or limitation, Oracle maintains its objection to this definition as including the term “PERSON” and the phrases “expresses interest,” “requisition process,” and “technical,” 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 responsive documents related to the PT1 job group at its Redwood Shores, CA,

location for the ALJ Relevant Period.

DEFINITION NO. 13. “GOVERNMENT CONTRACT” means a contract as defined in 41 C.F.R. § 60-1.3.

DEFINITION NO. 14. “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. 14:

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. Furthermore, the definition is objectionable insofar as it refers to multiple processes, is compound, and is wholly inconsistent with the commonly understood definition of the terms “hiring” or “hire.” 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 interprets this definition using the commonly understood use of the word “hiring” or “hire” and its responses, objections, and production are limited to responsive documents related to the PT1 job group at its Redwood Shores, CA, location for the ALJ Relevant Period.

DEFINITION NO. 15. “LABOR CONDITION APPLICATIONS” means a Labor Condition Application for H-1B Nonimmigrants provided by the United States Department of Labor, Employment and Training Administration.

OBJECTION TO DEFINITION NO. 15:

Due to OFCCP’s lack of clarification or limitation, Oracle maintains its objection to this

definition 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. Oracle further objects to this definition to the extent it encompasses documents that are not relevant to the discriminatory conduct allegedly engaged in at Oracle's Redwood Shores, CA, location. Oracle further objects to this request as calling for a legal conclusion and on the ground that it requires Oracle to conduct its own investigation into the definition and reference external material(s) to define the term.

DEFINITION NO. 16. "OFCCP" means the Office of Federal Contract Compliance Programs, United States Department of Labor.

DEFINITION NO. 17. "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. 17:

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. 18. "PERSON" means without limitation individuals, firms, associations, partnerships, corporations, governmental agencies or offices and employees, and any other entity.

OBJECTION TO DEFINITION NO. 18 (WITHDRAWN):

Based on OFCCP's clarifications during the meet and confer process, Oracle withdraws its prior objections to Definition No. 18.

DEFINITION NO. 19. "PERSONNEL" means information relating to YOUR current, former, or prospective employees.

OBJECTION TO DEFINITION NO. 19 (WITHDRAWN):

Based on OFCCP's clarifications during the meet and confer process, Oracle withdraws its prior objections to Definition No. 19.

DEFINITION NO. 20. "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. 20:

Due to OFCCP's lack of clarification or limitation, Oracle maintains its objection to this definition as including the term "PERSON" and the phrases "other form," "information is stored or maintained," "all levels of management," "purporting to act," "concerning the employment," and "current, former, or prospective [employee]," 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. Furthermore, the definition calls for all information "concerning the employment of a particular employee" irrespective of whether it is part of a personnel file and is therefore objectionable as being wholly inconsistent with any ordinarily understood meaning of the term. The definition is unintelligible, especially to the extent it refers to "a particular employee" even if the person is not employed and so necessarily has no "personnel file." 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 further objects to this definition on the grounds that it seeks confidential information that relates to and invades the privacy rights of individuals who are not a party to this action. Oracle further objects to this definition to the extent it seeks confidential, trade secret and/or proprietary business information.

DEFINITION NO. 21. "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. 21:

.Due to OFCCP's lack of clarification or limitation, Oracle maintains its objection to this definition as including the phrases "common understanding," "purporting to act," 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. 22. “PROMOTION” means a change in an employee’s job title, salary code, grade, or other ranking which results in an increase in COMPENSATION, responsibility, and/or other benefit.

OBJECTION TO DEFINITION NO. 22:

Due to OFCCP’s lack of clarification or limitation, Oracle maintains its objection to this definition as including the terms “change,” “salary code,” “grade,” other ranking,” “increase,” “responsibility,” and “other benefit,” which render the definition vague, ambiguous, compound, 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. 23. “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.

DEFINITION NO. 24. “TRANSFER EMPLOYEE” means an individual previously employed by YOU (i.e., a rehire) or at the time of hire was employed by YOU (at YOUR headquarters or at any of YOUR other locations) or by a corporate affiliate of YOU (such as Oracle India Pvt. Ltd.).

OBJECTION TO DEFINITION NO. 24:

Oracle objects to this definition as including the phrases “previously employed,” “rehire,” “hire,” “any of YOUR other locations,” and “corporate affiliate,” which render the definition vague, ambiguous, overbroad, unduly burdensome, compound, and oppressive, and encompassing documents not relevant to any party’s claim or defense nor proportional to the needs of the case. Furthermore, the definition is unintelligible to the extent it purports to include former employees within the definition of “transfer employees.” It is also inconsistent with the definition of the word “hire” provided herein and Oracle’s understanding of the term “hire”.

RESPONSES TO REQUESTS FOR PRODUCTION OF DOCUMENTS

REQUEST FOR PRODUCTION NO. 30:

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 an EXPERIENCED 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 during the RELEVANT TIME PERIOD.

RESPONSE TO REQUEST FOR PRODUCTION NO. 30:

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 phrases "authority to affect," "participating in job fairs," "evaluating," "screening," "expressions of interest," "making recommendations," and "approving hires." 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, produce responsive, non-privileged documents in its possession, custody, or control with sufficient information to identify those responsible for experienced recruiting for the PT1 job group at Oracle's Redwood Shores, CA, location during the ALJ Relevant Period.

REQUEST FOR PRODUCTION NO. 31:

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 TRANSFER EMPLOYEE's disposition or HIRING, including PERSONS evaluating or screening expressions of interest, resumes and other application DOCUMENTS, interviewing

applicants, making recommendations whether to hire applicants, and approving hires for technical positions, including positions in the PT1 job group or Product Development line of business during the RELEVANT TIME PERIOD.

RESPONSE TO REQUEST FOR PRODUCTION NO. 31:

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 terms and phrases "authority to affect," "disposition," "evaluating," "screening," "expressions of interest," "making recommendations," and "approving hires." 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.

In its Initial Responses and during the meet and confer, Oracle objected to this request to the extent that it relates to TRANSFER EMPLOYEES on the grounds that such employees are not treated as new hires and thus not relevant to OFCCP's hiring claims. However, as set forth in separate meet and confer correspondence dated June 9, 2017, after conducting a reasonably diligent search, Oracle determined that international transfer employees are treated as new hires in a number of ways, including many aspects of the job application process as well as certain reporting and internal recordkeeping purposes. Accordingly, Oracle agreed to modify its responses to reflect this information.

Subject to this understanding and without waiving its 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 those responsible for international transfer employees for the PT1 job group at Oracle's Redwood Shores, CA, location during the ALJ Relevant Period. .

REQUEST FOR PRODUCTION NO. 32:

DOCUMENTS, including but not limited to ORGANIZATIONAL CHARTS or lists, sufficient

to identify the structure of, and any and all PERSON(S) (by name and job title) within, YOUR human resources and/or PERSONNEL department(s) during the RELEVANT TIME PERIOD, including but not limited to: the job positions that existed within the human resources and/or PERSONNEL department(s); the PERSONS who held those positions; and the reporting relationships between each individual and job position.

RESPONSE TO REQUEST FOR PRODUCTION NO. 32:

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 phrase “reporting relationship.” 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, produce responsive, non-privileged documents in its possession, custody, or control with sufficient information to identify individuals in its Human Resources department with responsibilities related to its Support, Product Development and Information Technology job functions for the ALJ Relevant Period.

REQUEST FOR PRODUCTION NO. 33:

For each job position listed in the ORGANIZATIONAL CHARTS or lists identified in response to Request No. 32, produce all DOCUMENTS RELATING TO, or containing, a description of the specific functions, responsibilities, and tasks assigned and job duties to be performed.

RESPONSE TO REQUEST FOR PRODUCTION NO. 33:

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 terms and phrases “specific functions,” “responsibilities,” tasks assigned,” and “job duties.” 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.

During its meet and confer conversation with OFCCP on May 25, 2017, Oracle explained its overbreadth and relevance objections to this request; Oracle objected that the request as initially drafted encompasses any and all documents "related to" the duties of any job that appears on the documents produced in response to Request for Production No. 32. This could encompass thousands of potentially responsive documents. OFCCP explained that its goal with this request was to obtain a better understanding of the roles and responsibilities of the individuals working in Oracle's Human Resources department and agreed to modify the request to better meet this objective. In its letter dated June 28, 2017, OFCCP modified its response by replacing "description of specific functions, responsibilities, and tasks assigned and job duties to be performed" with "roles and responsibilities." Oracle continues to object to this request as modified on the grounds that production of "all documents relating to" the roles and responsibilities of any job positions appearing on documents responsive to Request for Production No. 32 is overbroad and disproportionately burdensome.

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

Consistent with its understanding of OFCCP's stated objectives during the meet and confer process, Oracle will, after conducting a reasonably diligent search and utilizing reasonable search parameters, produce responsive, non-privileged documents sufficient to identify the roles and responsibilities of individuals in its Human Resources department with responsibilities related to its Support, Product Development and Information Technology job functions for the ALJ Relevant Period.

REQUEST FOR PRODUCTION NO. 34:

All DOCUMENTS and COMMUNICATIONS RELATING TO YOUR POLICIES, PRACTICES, or PROCEDURES for HIRING EXPERIENCED RECRUITS during the RELEVANT TIME PERIOD, including but not limited to all DOCUMENTS and

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COMMUNICATIONS RELATING TO any criteria that YOU used to evaluate EXPERIENCED RECRUITS at any stage (i.e., screening, interview, post-interview, etc.) of the application process.

RESPONSE TO REQUEST FOR PRODUCTION NO. 34:

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 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. 35:

ALL DOCUMENTS and COMMUNICATIONS RELATING TO YOUR POLICIES, PRACTICES, or PROCEDURES for HIRING TRANSFER EMPLOYEES during the RELEVANT TIME PERIOD, including but not limited to all DOCUMENTS and COMMUNICATIONS RELATING TO any criteria that YOU used to evaluate TRANSFER EMPLOYEES at any stage (i.e., screening, interview, post-interview, etc.) of the application process.

RESPONSE TO REQUEST FOR PRODUCTION NO. 35:

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 terms and phrases "any criteria," "evaluate," "any stage," and "application process." 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.

In its Initial Responses and during the meet and confer, Oracle objected to this request to the extent that it relates to TRANSFER EMPLOYEES on the grounds that such employees are not treated as new hires and thus not relevant to OFCCP's hiring claims. However, as set forth in separate meet and confer correspondence dated June 9, 2017, after conducting a reasonably diligent search, Oracle determined that international transfer employees are treated as new hires in a number of ways, including many aspects of the job application process as well as certain reporting and internal recordkeeping purposes. Accordingly, Oracle agreed to modify its responses to reflect this information.

Subject to this understanding and without waiving its objections, Oracle responds:

Oracle will, after conducting a reasonably diligent search and utilizing reasonable search parameters, produce responsive, non-privileged policies, practices, or procedures for hiring international transfer employees 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. 36:

All DOCUMENTS and COMMUNICATIONS RELATING TO YOUR POLICIES, PRACTICES, or PROCEDURES for HIRING international TRANSFER EMPLOYEES during the RELEVANT TIME PERIOD, including but not limited to all DOCUMENTS and COMMUNICATIONS RELATING TO any criteria that YOU used to evaluate international TRANSFER EMPLOYEES at any stage (i.e., screening, interview, post-interview) of the application process.

RESPONSE TO REQUEST FOR PRODUCTION NO. 36:

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 terms and phrases "international," "any criteria," "evaluate," "any stage," and "application process." 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.

In its Initial Responses and during the meet and confer, Oracle objected to this request to the extent that it relates to TRANSFER EMPLOYEES on the grounds that such employees are not treated as new hires and thus not relevant to OFCCP's hiring claims. However, as set forth in separate meet and confer correspondence dated June 9, 2017, after conducting a reasonably diligent search, Oracle determined that international transfer employees are treated as new hires in a number of ways, including many aspects of the job application process as well as certain reporting and internal recordkeeping purposes. Accordingly, Oracle agreed to modify its responses to reflect this information.

Subject to this understanding and without waiving its objections, Oracle responds:

Oracle will, after conducting a reasonably diligent search and utilizing reasonable search parameters, produce responsive, non-privileged policies, practices, or procedures for hiring international transfer employees 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. 37:

All DOCUMENTS and COMMUNICATIONS RELATING TO events YOU were involved with (including but not limited to events YOU held, sponsored, attended, or sent materials [whether or not YOU attended], such as recruiting fairs, job fairs, events for AFFINITY GROUPS) RELATING TO HIRING EXPERIENCED RECRUITS during the RELEVANT TIME PERIOD.

RESPONSE TO REQUEST FOR PRODUCTION NO. 37:

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 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 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. 38:

All DOCUMENTS and COMMUNICATIONS RELATING TO events YOU were involved with (including but not limited to events YOU held, sponsored or attended, such as internal job fairs, events for AFFINITY GROUPS) RELATING TO HIRING TRANSFER EMPLOYEES for any technical positions, including all 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. 38:

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 and phrases "events," "involved with," "any technical positions," "job group positions," and "line of business." 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.

In its Initial Responses and during the meet and confer, Oracle objected to this request to the extent that it relates to TRANSFER EMPLOYEES on the grounds that such employees are not treated as new hires and thus not relevant to OFCCP's hiring claims. However, as set forth in separate meet and confer correspondence dated June 9, 2017, after conducting a reasonably diligent search, Oracle determined that international transfer employees are treated as new hires in a number of ways, including many aspects of the job application process as well as certain reporting and internal recordkeeping purposes. Accordingly, Oracle agreed to modify its

responses to reflect this information.

Subject to this understanding and without waiving its objections, Oracle responds:

During its meet and confer call with OFCCP on May 25, 2017, Oracle explained that—setting aside the validity of any objections as to the issue of transfer employees—there are no unique documents in response to this request that would not also be responsive to OFCCP Request for Production No. 37, to which Oracle has agreed to produce responsive, non-privileged documents as set forth above. Accordingly, 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. 39:

All DOCUMENTS and COMMUNICATIONS exchanged between YOU and any recruiter (internal or external) RELATING TO HIRING EXPERIENCED RECRUITS during the RELEVANT TIME PERIOD.

RESPONSE TO REQUEST FOR PRODUCTION NO. 39:

Oracle incorporates by reference its Objections to Specific Definitions set forth above. Due to OFFCP’s lack of clarification or limitation during the meet and confer process, Oracle maintains its objection 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.

As explained during its meet and confer conversation with OFCCP on May 25, 2017, Oracle continues to object to the lack of any reasonable limitations on this request. As written, the request encompasses all communications within Oracle related to experienced recruiting, regardless of the particular job position or department, and thus extends to a potentially huge number of non-relevant documents. Oracle objects to the incredible burden associated with searching for and reviewing all of the many thousands of documents and emails that are

potentially related to this request, a burden that will only magnify 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. 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 and a reasonably limited number of affected persons within the ALJ Relevant Period.

REQUEST FOR PRODUCTION NO. 40:

All DOCUMENTS and COMMUNICATIONS exchanged between YOU and any recruiter (internal or external) RELATING TO HIRING TRANSFER EMPLOYEES during the RELEVANT TIME PERIOD.

RESPONSE TO REQUEST FOR PRODUCTION NO. 40:

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 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. Similar to its objection to Request for Production No. 39, Oracle objects to the lack of any reasonable limitations on this request. As written, the request encompasses all communications within Oracle related to the hiring of transfer employees, regardless of the particular job position or department and thus extends to a potentially huge number of non-relevant documents.

In its Initial Responses and during the meet and confer, Oracle objected to this request to the extent that it relates to TRANSFER EMPLOYEES on the grounds that such employees are not treated as new hires and thus not relevant to OFCCP's hiring claims. However, as set forth in separate meet and confer correspondence dated June 9, 2017, after conducting a reasonably diligent search, Oracle determined that international transfer employees are treated as new hires in a number of ways, including many aspects of the job application process as well as certain reporting and internal recordkeeping purposes. Accordingly, Oracle agreed to modify its responses to reflect this information.

Nevertheless, with regard to this particular request, Oracle objects to the incredible burden associated with searching for and reviewing all of the many thousands of documents and emails that are potentially related to the request, a burden that will only magnify 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. 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 and a reasonably limited number of affected persons within the ALJ Relevant Period.

FOR PRODUCTION NO. 41:

All DOCUMENTS and COMMUNICATIONS RELATING TO POLICIES, PRACTICES, or PROCEDURES (including but not limited to manuals or instructions) for searching external job boards or websites for potential HIRES during the RELEVANT TIME PERIOD.

RESPONSE TO REQUEST FOR PRODUCTION NO. 41:

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 and phrases “instructions,” “manuals,” “external job boards,” “websites,” and “potential.” 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. 42:

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

RESPONSE TO REQUEST FOR PRODUCTION NO. 42:

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 and phrases “notes or records,” “interviews,” and “interviewed.” 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 the incredible burden associated with searching for and reviewing all of the many thousands of documents and emails that are potentially related to this request, a burden that will only magnify 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. 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 and a reasonably limited number of affected persons within the ALJ Relevant Period.

REQUEST FOR PRODUCTION NO. 43:

All notes or records of interviews, whether by phone or in-person (including but not limited to memos, emails, and text messages), of TRANSFER EMPLOYEES who were interviewed for any PT1 job group positions or positions within the Product Development line of business during the RELEVANT TIME PERIOD.

RESPONSE TO REQUEST FOR PRODUCTION NO. 43:

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 and phrases “notes or records,” “interviews,” “interviewed,” “job group positions,” and “line of business.” 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.

In its Initial Responses and during the meet and confer, Oracle objected to this request to the extent that it relates to TRANSFER EMPLOYEES on the grounds that such employees are not treated as new hires and thus not relevant to OFCCP’s hiring claims. However, as set forth in separate meet and confer correspondence dated June 9, 2017, after conducting a reasonably diligent search, Oracle determined that international transfer employees are treated as new hires in a number of ways, including many aspects of the job application process as well as certain reporting and internal recordkeeping purposes. Accordingly, Oracle agreed to modify its responses to reflect this information.

Notwithstanding this, Oracle further objects to the incredible burden associated with

searching for and reviewing all of the many thousands of documents and emails that are potentially related to this request, a burden that will only magnify 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. 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 and a reasonably limited number of affected persons within the ALJ Relevant Period.

REQUEST FOR PRODUCTION NO. 44:

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

RESPONSE TO REQUEST FOR PRODUCTION NO. 44:

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 and phrases “stating,” “summarizing,” “supporting,” “explaining,” “decision,” “recommendation,” “disposition,” “expression of interest,” “application,” “any point,” and “process.” 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.

During its meet and confer with OFCCP on May 30, 2017, Oracle explained that its overbreadth objection to this request is similar to its objection to OFCCP’s Request for Production No. 42 with regard to OFCCP’s definition of “EXPERIENCED RECRUITS” as Oracle agreed to revisit its responses and objections to this request so long as OFCCP modified it in accordance with Oracle’s position. In its letter dated June 28, 2017, OFCCP offered to modify this request “by just limiting it to the PT1 Job Group or the Product Development Line of Business.”

Notwithstanding OFCCP’s incomplete modification, Oracle maintains its objection to the incredible burden associated with searching for and reviewing all of the many thousands of documents and emails that are potentially related to this request, a burden that will only magnify 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. 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 and a reasonably limited number of affected persons within the ALJ Relevant Period.

REQUEST FOR PRODUCTION NO. 45:

All DOCUMENTS and COMMUNICATIONS (including but not limited to memos, emails, and text messages) stating, summarizing, supporting, or explaining YOUR decision or recommendation on a disposition of an expression of interest or application at any point of the HIRING process from a TRANSFER EMPLOYEE who applied for or expressed an interest for any PT1 job group positions or positions within the Product Development line of business during the RELEVANT TIME PERIOD.

RESPONSE TO REQUEST FOR PRODUCTION NO. 45:

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 and phrases “stating,” “summarizing,” “supporting,” “explaining,” “decision,” “recommendation,” “disposition,” “expression of interest,” “application,” “any point,” “process,” “applied for,” “expressed an interest,” “job group positions,” and “line of business.” 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.

In its Initial Responses and during the meet and confer, Oracle objected to this request to the extent that it relates to TRANSFER EMPLOYEES on the grounds that such employees are not treated as new hires and thus not relevant to OFCCP’s hiring claims. However, as set forth

in separate meet and confer correspondence dated June 9, 2017, after conducting a reasonably diligent search, Oracle determined that international transfer employees are treated as new hires in a number of ways, including many aspects of the job application process as well as certain reporting and internal recordkeeping purposes. Accordingly, Oracle agreed to modify its responses to reflect this information.

Nevertheless, with regard to this particular request, Oracle maintains its objection to the incredible burden associated with searching for and reviewing all of the many thousands of documents and emails that are potentially related to this request, a burden that will only magnify 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. 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 and a reasonably limited number of affected persons within the ALJ Relevant Period.

REQUEST FOR PRODUCTION NO. 46:

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

All COMMUNICATIONS (including by not limited to memos, emails, and text messages) to and from Joyce Westerdahl RELATING TO: HIRING; COMPENSATION; PROMOTIONS; diversity or affirmative action; race; gender; national origin; or complaints (whether formal or informal) regarding: discrimination (including but not limited to race or gender); retaliation; unfair treatment; unfair COMPENSATION; and/or hostile work environment.

RESPONSE TO REQUEST FOR PRODUCTION NO. 46:

Oracle incorporates by reference its Objections to Specific Definitions set forth above. Due to OFCCP's lack of limitation or clarification of this request, Oracle maintains its objections to this request on the grounds that it is vague and ambiguous, 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 on the grounds that it seeks confidential information that relates to and invades the privacy rights of individuals who are not a party to this action.

During its meet and confer call with OFCCP on May 30, 2017, Oracle requested that OFCCP modify this request as it lacks any specificity with regard to any job categories or groups, let alone PT1, fails to designate a relevant time frame for responsive materials, and includes topics that are not relevant to this litigation, such as PROMOTIONS. OFCCP responded at that time that it was unwilling to modify or alter its request in any way.

In subsequent meet and confer correspondence dated June 30, 2017, OFCCP offered to modify the request by (1) removing "including, but not limited to race and gender" and replacing it with "on the basis of race, gender, or national origin," and (2) removing the words "unfair treatment." These modifications were contingent, however, on Oracle agreeing to an arbitrary and unilaterally-imposed timeframe for production of these documents. Even setting aside their conditional nature, OFCCP's proposed modifications do not serve as reasonable limitations on this incredibly broad request, and OFCCP has continually failed to meet its burden of explaining

how all of the communications sought by this request are relevant and proportional for the purposes of this litigation. *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”).

REQUEST FOR PRODUCTION NO. 47:

All DOCUMENTS (e.g., applications, resumes, expressions of interest, transcripts, references) submitted by PERSONS expressing an interest in or applying for positions in the PT1 job group or Product Development line of business during the RELEVANT TIME PERIOD.

RESPONSE TO REQUEST FOR PRODUCTION NO. 47:

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 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. 48:

All DOCUMENTS (e.g., job postings, requisitions, e-mails) submitted from YOU to PERSONS expressing an interest in or applying for positions in the PT1 job group or Product Development line of business during the RELEVANT TIME PERIOD.

RESPONSE TO REQUEST FOR PRODUCTION NO. 48:

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 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.

During its meet and confer with OFCCP on May 30, 2017, Oracle explained that its overbreadth and relevance objections are based on the request's lack of time period limitations and its extension beyond the PT1 job group. Oracle also asked for clarification as to what "submitted" means in the context of this request, and OFCCP explained that this request seeks communications and documents that were affirmatively sent by Oracle employees to persons expressing an interest in a position as opposed to documents that were made generally available and accessible to applicants or potential job applicants, such as through Oracle's website.

In light of the clarification provided by OFCCP during the meet and confer process and without waiving its 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. 49:

All DOCUMENTS that define or describe YOUR DOCUMENT and data retention POLICIES, PRACTICES, or PROCEDURES for YOUR DATABASE(S) and any other repository for storing DOCUMENTS RELATING TO HIRING (including iRecruitment and Taleo) during the RELEVANT TIME PERIOD.

RESPONSE TO REQUEST FOR PRODUCTION NO. 49:

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

Subject to and without waiving these objections, Oracle responds:

Oracle has produced its Records Management Policy and Retention Schedules, which are responsive to this request.

REQUEST FOR PRODUCTION NO. 50:

All DOCUMENTS that define or describe YOUR DOCUMENT and data retention POLICIES, PRACTICES, or PROCEDURES for YOUR human resources, compensation, and/or PERSONNEL DATABASE(S) and any other repository for storing PERSONNEL DOCUMENTS and COMMUNICATIONS (including E-business suites, HRIS, Compensation workbench, and GSIAP) during the RELEVANT TIME PERIOD.

RESPONSE TO REQUEST FOR PRODUCTION NO. 50:

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

Subject to and without waiving these objections, Oracle responds:

Oracle has produced its Records Management Policy and Retention Schedules, which are responsive to this request.

REQUEST FOR PRODUCTION NO. 51:

DOCUMENTS, including but not limited to ORGANIZATIONAL CHARTS or lists, sufficient to identify any and all PERSON(S) with knowledge of YOUR human resources and/or PERSONNEL DATABASE(S) and any other repository for storing PERSONNEL DOCUMENTS and COMMUNICATIONS, including but not limited to identifying any and all PERSONS(S) with knowledge RELATING TO: inputting, saving, storing, producing, deleting, and manipulating information contained in said DATABASE(S).

RESPONSE TO REQUEST FOR PRODUCTION NO. 51:

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 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:

Over the past few weeks, Oracle has made available multiple witnesses regarding its

various database systems for OFCCP to interview. In light of these interviews, Oracle requests that OFCCP revisit and modify this request.

REQUEST FOR PRODUCTION NO. 52:

All performance evaluation forms (including electronic forms or fields for data entry) that YOU used for PERSONS in PT1 job group positions or in the Product Development, Information Technology, and Support lines of business during the RELEVANT TIME PERIOD.

RESPONSE TO REQUEST FOR PRODUCTION NO. 52:

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 phrases “performance evaluation forms” and “job group positions.” 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. Furthermore the request implies that Oracle engages in and has a formal record of some form of performance evaluation for all employees in the PT1 job group or in the Product Development, Information Technology, and Support lines of business. As explained by Oracle’s 30(b)(6) interviewees, this is not the case.

Subject to and without waiving these objections, Oracle responds:

Oracle will produce a screenshot (or screenshots) that shows the fields that can be populated in Oracle’s Performance Appraisal application.

REQUEST FOR PRODUCTION NO. 53:

DOCUMENTS, including but not limited to ORGANIZATIONAL CHARTS or lists, sufficient to identify any and all PERSON(S), including but not limited to officers, executives, and all levels of management, with the ability to make a decision to affect a PERSON’S COMPENSATION (i.e., by evaluating job performance, recommending increases or decreases in COMPENSATION; recommending PROMOTIONS or demotions) during the RELEVANT

TIME PERIOD for positions within the Product Development, Information Technology, and Support lines of business.

RESPONSE TO REQUEST FOR PRODUCTION NO. 53:

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 phrases “all levels of management,” “ability to make,” and “decision to affect.” 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 and is therefore unable to produce any responsive documents.

REQUEST FOR PRODUCTION NO. 54:

All DOCUMENTS relating to PRACTICES, POLICIES, or PROCEDURES for assigning PERSONS in the Product Development, Information Technology, and Support lines of business during the RELEVANT TIME PERIOD to a “salary code” or “grade” and to a job title.

RESPONSE TO REQUEST FOR PRODUCTION NO. 54:

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 and phrases “assigning,” “salary code,” and “grade.” 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.

REQUEST FOR PRODUCTION NO. 55:

All DOCUMENTS RELATING TO PRACTICES, POLICIES, or PROCEDURES for

determining starting COMPENSATION (i.e., upon hire) for COLLEGE RECRUITS during the RELEVANT TIME PERIOD.

RESPONSE TO REQUEST FOR PRODUCTION NO. 55:

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 terms “determining” and “starting.” 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 relating to the PT1 job group at its Redwood Shores, CA, location for the ALJ Relevant Period.

REQUEST FOR PRODUCTION NO. 56:

ALL DOCUMENTS RELATING TO PRACTICES, POLICIES, or PROCEDURES for determining starting COMPENSATION (i.e., upon hire) for EXPERIENCED RECRUITS hired into PT1 job group positions or into positions in the Product Development, Information Technology, and Support lines of business during the RELEVANT TIME PERIOD.

RESPONSE TO REQUEST FOR PRODUCTION NO. 56:

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 and phrases “determining,” “starting,” and “job group positions.” 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 ALJ Relevant Period.

REQUEST FOR PRODUCTION NO. 57:

ALL DOCUMENTS RELATING TO PRACTICES, POLICIES, or PROCEDURES for determining starting COMPENSATION (i.e., upon hire for that particular position) for TRANSFER EMPLOYEES hired into PT1 job group positions or into positions in the Product Development, Information Technology, and Support lines of business during the RELEVANT TIME PERIOD (including COMPENSATION guidelines for international TRANSFER EMPLOYEES).

RESPONSE TO REQUEST FOR PRODUCTION NO. 57:

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 and phrases “determining,” “starting,” and “job group positions.” 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.

In its Initial Responses and during the meet and confer, Oracle objected to this request to the extent that it relates to TRANSFER EMPLOYEES on the grounds that such employees are not treated as new hires and thus not relevant to OFCCP’s hiring claims. However, as set forth in separate meet and confer correspondence dated June 9, 2017, after conducting a reasonably diligent search, Oracle determined that international transfer employees are treated as new hires in a number of ways, including many aspects of the job application process as well as certain reporting and internal recordkeeping purposes. Accordingly, Oracle agreed to modify its responses to reflect this information.

Subject to this understanding 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 relating to international transfer employees for the ALJ Relevant Period.

REQUEST FOR PRODUCTION NO. 58:

ALL DOCUMENTS RELATING TO PRACTICES, POLICIES, or PROCEDURES for determining job assignments (including but not limited to department/division, group, product team, and/or client assignments) for PERSONS in PT1 job group positions or in the Product Development, Information Technology, and Support lines of business during the RELEVANT TIME PERIOD.

RESPONSE TO REQUEST FOR PRODUCTION NO. 58:

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 and phrases “determining,” “job assignments,” and “job group positions.” 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.

REQUEST FOR PRODUCTION NO. 59:

ALL DOCUMENTS RELATING TO PRACTICES, POLICIES, or PROCEDURES RELATING TO the PROMOTION process for PERSONS in the Product Development, Information Technology, and Support lines of business during the RELEVANT TIME PERIOD.

RESPONSE TO REQUEST FOR PRODUCTION NO. 59:

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 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.

During the meet and confer process, Oracle repeatedly explained that its objection to this

request is based on the non-relevance of promotions to the hiring and compensation claims at issue in this litigation. OFCCP's request and its stated rationale for this request during the meet and confer process improperly conflates promotions with its compensation-related claims. *See, e.g., Noel v. Boeing Co.*, 622 F.3d 266, (3d Cir. 2010) (explaining that courts treat "compensation-related claims and failure-to-promote claims as distinct grievances that are not coextensive").

REQUEST FOR PRODUCTION NO. 60:

All DOCUMENTS RELATING TO managers' requests for a PROMOTION of PERSONS in the Product Development, Information Technology, and Support lines of business during the RELEVANT TIME PERIOD, including but not limited to any completed "Promotion Template."

RESPONSE TO REQUEST FOR PRODUCTION NO. 60:

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 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.

During the meet and confer process, Oracle repeatedly explained that its objection to this request is based on the non-relevance of promotions to the hiring and compensation claims at issue in this litigation. OFCCP's request and its stated rationale for this request during the meet and confer process improperly conflates promotions with its compensation-related claims. *See, e.g., Noel v. Boeing Co.*, 622 F.3d 266, (3d Cir. 2010) (explaining that courts treat "compensation-related claims and failure-to-promote claims as distinct grievances that are not coextensive").

REQUEST FOR PRODUCTION NO. 61:

For each PERSON in the Product Development, Information Technology, and Support lines of business during the RELEVANT TIME PERIOD, DOCUMENTS evidencing the

PERSON's characteristics YOU considered when setting that PERSON's COMPENSATION, either upon hire or in connection with a raise or PROMOTION, including but not limited to performance evaluations or other DOCUMENTS from the PERSON's PERSONNEL FILE evidencing that PERSON's experience or qualifications.

RESPONSE TO REQUEST FOR PRODUCTION NO. 61:

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 and phrases "characteristics," "considered," "performance evaluations," "evidencing," "experience," "personnel file," or "qualification." 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 because as stated, it calls for Oracle to speculate as to the particular characteristics or documents that any individual manager at Oracle may or may not have relied upon in making any individual compensation-related decision.

During its meet and confer call with OFCCP on June 1, 2017, Oracle explained its objections, including its objection to the relevance of information related to PROMOTIONS, which are not relevant to OFCCP's hiring and compensation claims. Oracle also explained the overly burdensome nature of responding to this request, which, as written, demands that Oracle collect and review documents from the personnel files of thousands of employees and then attempt to determine the "characteristics"—a vague and ambiguous term that OFCCP has declined to limit or clarify—that may have been considered for that employee in relation to his or her compensation. However, OFCCP declined to limit its request in any meaningful way. Accordingly, Oracle maintains its objections.

REQUEST FOR PRODUCTION NO. 62:

ALL DOCUMENTS RELATING TO PRACTICES, POLICIES, or PROCEDURES for

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determining any changes in COMPENSATION for PERSONS in the Product Development, Information Technology, and Support lines of business during the RELEVANT TIME PERIOD.

RESPONSE TO REQUEST FOR PRODUCTION NO. 62:

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 phrase “determining any changes.” 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 related to the Support, Product Development and Information Technology job functions at its Redwood Shores, CA, location for the ALJ Relevant Period.

REQUEST FOR PRODUCTION NO. 63:

ALL DOCUMENTS RELATING TO PRACTICES, POLICIES, or PROCEDURES for setting pay ranges for job titles and/or pay grades in the Product Development, Information Technology, and Support lines of business during the RELEVANT TIME PERIOD.

RESPONSE TO REQUEST FOR PRODUCTION NO. 63:

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 phrases “setting pay ranges,” “pay grades,” and “lines of business.” 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 related to the Support, Product Development and Information Technology job functions at its Redwood Shores, CA, location for the ALJ Relevant Period.

REQUEST FOR PRODUCTION NO. 64:

All DOCUMENTS RELATING TO PRACTICES, POLICIES, or PROCEDURES reflecting how PERSONS in the Product Development, Information Technology, and Support lines of business are evaluated, ranked, and/or analyzed, during the RELEVANT TIME PERIOD, including but not limited to: standards used; the process for evaluating, ranking, and/or analyzing; positions that evaluate, rank and/or analyze; the review and approval process.

RESPONSE TO REQUEST FOR PRODUCTION NO. 64:

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 and phrases “reflecting,” “lines of business,” “evaluate[d],” “ranke[d],” “analyze[d],” “standards used,” and “review and approval process.” 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.

During its meet and confer with OFCCP on June 1, 2017, Oracle explained its objections and requested that OFCCP clarify and explain this request. Following OFCCP’s explanation, Oracle requested that OFCCP provide a clarified or modified request in writing. OFCCP has yet to provide a clarified or modified request.

REQUEST FOR PRODUCTION NO. 65:

All DOCUMENTS provided to YOUR employees, including but not limited to employee handbooks, describing PRACTICES, POLICIES, or PROCEDURES RELATING TO: HIRING; job assignments (including but not limited to initial job assignments, lateral movements, and

transfers); COMPENSATION; PROMOTIONS; demotions; diversity and/or affirmative action, for PT1 job group positions and positions in the Product Development, Information Technology, and Support lines of business during the RELEVANT TIME PERIOD.

RESPONSE TO REQUEST FOR PRODUCTION NO. 65:

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 and phrases “job assignments,” “lateral movements,” “transfers,” “demotions,” “diversity,” “affirmative action,” and “lines of business.” 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.

During its meet and confer with OFCCP on June 1, 2017, Oracle explained its objections and requested that OFCCP clarify and explain this request. Following OFCCP’s explanation, Oracle requested that OFCCP provide a clarified or modified request in writing. OFCCP has yet to provide a clarified or modified request.

REQUEST FOR PRODUCTION NO. 66:

All DOCUMENTS RELATING TO PRACTICES, POLICIES, or PROCEDURES for raising a complaint of: discrimination (including but not limited to race or gender); retaliation; unfair treatment; unfair COMPENSATION; and/or hostile work environment (including all PRACTICES, POLICIES, or PROCEDURES RELATING TO YOU investigating and addressing such complaints, whether internal or external) during the RELEVANT TIME PERIOD.

RESPONSE TO REQUEST FOR PRODUCTION NO. 66:

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 and

phrases “raising a complaint,” “discrimination,” “retaliation,” “unfair treatment,” “unfair COMPENSATION,” “hostile work environment,” “investigating,” and “addressing.” 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.

During the meet and confer process, Oracle explained its overbreadth and relevance objections to this request. In response, OFCCP indicated that it would be willing to modify this request. In its meet and confer letter dated June 28, 2017, OFCCP only agreed to partially modify this request to remove the words “unfair treatment.”

Nevertheless, subject to this modification and without waiving its objections, Oracle responds:

Oracle will, after conducting a reasonably diligent search, produce responsive, non-privileged documents in its possession, custody, or control.

REQUEST FOR PRODUCTION NO. 67:

All DOCUMENTS RELATING TO complaints made (whether formal or informal, oral or written) against YOU (including against any and all PERSON(S) involved in HIRING for PT1 job group and/or Product Development job group positions or involved in determining COMPENSATION for employees in the Product Development, Information Technology, and Support lines of business) that allege, in whole or in part, discrimination (including but not limited to race or gender); retaliation; unfair treatment; unfair COMPENSATION; and/or hostile work environment during the RELEVANT TIME PERIOD.

RESPONSE TO REQUEST FOR PRODUCTION NO. 67:

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 and

phrases “complaints made,” “oral,” “job group positions,” involved in determining,” “in whole or in part,” “discrimination,” “retaliation,” “unfair treatment,” “unfair COMPENSATION,” “hostile work environment,” and “lines of business.” 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 objects to the extent the request calls for a legal conclusion(s). Oracle further objects to this request on the grounds that it seeks confidential information that relates to and invades the privacy rights of individuals who are not a party to this action. 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 the meet and confer process, Oracle explained its overbreadth and relevance objections to this request, including that this request covers issues with no relevance of OFCCP’s actual claims, specifically retaliation, unfair treatment, and hostile work environment. In an effort to narrow the scope of this request to relevant individuals, Oracle also requested that OFCCP identify those individuals it contends were discriminated against as determined in its Notice of Violation. In response, OFCCP indicated that it would consider modifying this request. However, in its meet and confer letter dated June 28, 2017, OFCCP only partially modified its request to remove the words “unfair treatment” and to replace the language “including but not limited to race or gender” with “on the basis of race, gender, or national origin.” Due to OFCCP’s refusal to provide sufficient modifications to or otherwise limit this request, Oracle maintains its objections.

REQUEST FOR PRODUCTION NO. 68:

All DOCUMENTS initiating legal proceedings against YOU concerning PERSONNEL issues by PERSONS in the PT1 job group or in the Product Development, Information Technology, or Support lines of business during the RELEVANT TIME PERIOD, including but not limited to: civil lawsuits; arbitrations; and/or administrative charges of: discrimination

(including but not limited to race or gender); retaliation; unfair treatment; unfair COMPENSATION; and/or hostile work environment, including but not limited to charges filed with the Equal Employment Opportunity Commission, any state equal employment agencies, human rights agencies, or unemployment agencies.

RESPONSE TO REQUEST FOR PRODUCTION NO. 68:

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 and phrases “initiating legal proceedings,” “concerning,” “discrimination,” “retaliation,” “unfair treatment,” “unfair COMPENSATION,” “hostile work environment,” “any state equal employment agencies,” “human rights agencies,” and “unemployment agencies.” Oracle objects to the extent the request calls for a legal conclusion. 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 on the grounds that it seeks confidential information that relates to and invades the privacy rights of individuals who are not a party to this action. 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 the meet and confer process, Oracle explained its overbreadth and relevance objections to this request, including that this request covers issues with no relevance of OFCCP’s actual claims, specifically retaliation, unfair treatment, and hostile work environment. In an effort to narrow the scope of this request to relevant individuals, Oracle also requested that OFCCP identify those individuals it contends were discriminated against as determined in its Notice of Violation. In response, OFCCP indicated that it would consider modifying this request. However, in its meet and confer letter dated June 28, 2017, OFCCP only partially modified its request to remove the words “unfair treatment” and to replace the language

“including but not limited to race or gender” with “on the basis of race, gender, or national origin.” Due to OFCCP’s refusal to provide sufficient modifications to or otherwise limit this request, Oracle maintains its objections.

REQUEST FOR PRODUCTION NO. 69:

All DOCUMENTS, including but not limited to employee surveys, summaries, reports, or presentations, addressing or referencing: discrimination (including but not limited to race or gender); retaliation; unfair treatment; unfair COMPENSATION; hostile work environment; morale; and/or improper management conduct during the RELEVANT TIME PERIOD.

RESPONSE TO REQUEST FOR PRODUCTION NO. 69:

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 and phrases “employee surveys,” “summaries,” “reports,” “presentations,” “addressing or referencing,” “discrimination,” “retaliation,” “unfair treatment,” “unfair COMPENSATION,” “hostile work environment,” “morale,” and “improper management conduct.” 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.

During the meet and confer process, Oracle explained its overbreadth and relevance objections to this request, including that this request covers issues with no relevance of OFCCP’s actual claims, specifically retaliation, unfair treatment, and hostile work environment. In response, OFCCP indicated that it would consider modifying this request. However, in its meet and confer letter dated June 28, 2017, OFCCP only partially modified its request to remove the words “unfair treatment” and to replace the language “including but not limited to race or gender” with “on the basis of race, gender, or national origin.” Due to OFCCP’s refusal to

provide sufficient modifications to or otherwise limit this request, Oracle maintains its objections.

REQUEST FOR PRODUCTION NO. 70:

All GOVERNMENT CONTRACTS to which YOU have been a party during the RELEVANT TIME PERIOD, including any addenda, modifications, affirmations, and/or novations.

RESPONSE TO REQUEST FOR PRODUCTION NO. 70:

Oracle incorporates by reference its Objections to Specific Definitions set forth above. Due to OFCCP's lack of clarification or limitation of this request 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 terms "addenda," "modifications," "affirmations," and "novations." 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. Oracle further objects to this request as encompassing information already available to the OFCCP.

During its meet and confer conversations with OFCCP, Oracle sought to understand how this request is relevant to the litigation beyond showing that Oracle qualifies as a government contractor under 41 C.F.R. Chapter 60: Executive Order 11246. To satisfy what it understood the purpose of this request to be, Oracle offered to stipulate that it is a government contractor. In response, OFCCP declined to clarify its request or accept Oracle's stipulation. Instead, OFCCP provided the somewhat circular argument that the information sought in this request is relevant to Oracle's objections to OFFCP's Requests for Production that are based on proportionality. OFFCP has never subsequently modified or clarified this request in writing, and Oracle maintains its objection that this request does not seek information relevant to this litigation.

REQUEST FOR PRODUCTION NO. 71:

YOUR internal pay equity analyses conducted pursuant to 41 C.F.R. § 60-2.17 for the RELEVANT TIME PERIOD, including the date of analysis and dataset(s) used for the analysis.

RESPONSE TO REQUEST FOR PRODUCTION NO. 71:

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 as overbroad in scope, 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. Oracle further objects to this request on the ground that it requires Oracle to refer to materials outside the request itself.

REQUEST FOR PRODUCTION NO. 72:

All DOCUMENTS RELATING TO actions taken during the RELEVANT TIME PERIOD in response to YOUR internal pay equity analyses conducted pursuant to 41 C.F.R. § 60-2.17.

RESPONSE TO REQUEST FOR PRODUCTION NO. 72:

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 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. Oracle further objects to this request on the ground that it requires Oracle to refer to materials outside the request itself.

REQUEST FOR PRODUCTION NO. 73:

DATABASE(S) exported in a non-proprietary format, such as an Excel-readable file (e.g., .XLS or .CSV files), with data dictionaries and/or internal documentation describing the fields/outputs containing the following, regardless of time period: PERSONNEL, PROMOTION, payroll, gender, and race data for employees in the PT1 job group or in the Product Development, Information Technology, and Support lines of business. Data should include all data contained in Oracle's GSIAP system, including data from (1) the "People" window and all tabs shown on that window (i.e., "Personal," "Employment," "Office Details," "Applicant," "Further Name," "Other," and "Benefits"); (2) the "Previous Employment Information" window; (3) the "Schools and Colleges Attended" window; (4) the "Assignment" screen and all tabs shown on that window (i.e., "Salary Information," "Supervisor," "Standard Conditions," and "Statutory Information"); (5) the "Salary Administration" window; (6) the "Performance" window; (7) the "Salary History" window; and (8) the "DateTrack History of Assignments" window.

RESPONSE TO REQUEST FOR PRODUCTION NO. 73:

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 the request as being vague and ambiguous, including but not limited to, as to the data being requested, as well as to the terms: "data dictionaries" and "internal documentation." Similarly the use of commas, qualifiers, "data," and "window[s]" renders the request unintelligible. Oracle further objects to this request as overbroad in scope and time, unduly burdensome, compound,

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.

During the meet and confer process, Oracle explained that this request, as written, seeks the export of the entire GSIAP database, which involves a massive amount of data associated with tens of thousands of Oracle employees who are wholly unrelated to the allegations in the Amended Complaint. In response, OFCCP provided an explanation of what they were hoping to obtain with their request, stating that they were not in fact seeking the export of the GSIAP database, thus providing an interpretation of the request that is contrary to its plain language, which, as written, seeks "all data contained in Oracle's GSIAP system." Oracle suggested that OFCCP narrow its requests to better reflect OFCCP's stated intent.

Since these discussions, Oracle has continued to meet and confer with OFCCP to identify whether and how it can produce data related to this request. During the meet and confer process, Oracle has explained—with the assistance of eight witnesses produced to OFCCP to discuss Oracle's databases and the modules and applications associated with them—that its databases were not designed for the purpose of exporting data en masse in the manner contemplated by OFCCP. Oracle has further explained that exporting data for the OFCCP will require scripts to be written that collect and generate the information sought by OFCCP as well as testing, confirmation, and quality control of the results of any data export. Notwithstanding the burdensome and time-consuming nature of this process—further illustrated by OFCCP's eleven-page letter dated June 30, 2017 outlining in detail the various data they are seeking in Oracle's databases—and Oracle's objections as detailed above, Oracle continues actively working with OFCCP to provide it with data related to this request.

REQUEST FOR PRODUCTION NO. 74:

DATABASE(S) exported in a non-proprietary format, such as an Excel-readable file (e.g., .XLS or .CSV files), with data dictionaries and/or or internal documentation describing the

fields/outputs containing the following: applicant, offer, gender, and race data for EXPERIENCED RECRUITS during the RELEVANT TIME PERIOD. Data should include all data contained in Oracle's iRecruitment system and Taleo system, including data from (1) the "Candidate Details" window and all tabs shown on that window (i.e., including "Candidate Profile," "Qualifications," "Resumes and Documents," "Jobs Considered for," "Applications," and "Offers"), (2) the "Vacancies" window and all tabs shown on that window (i.e., "Vacancy Details," "Applicants," and links, such as "Review Resume" and "Application Notes").

RESPONSE TO REQUEST FOR PRODUCTION NO. 74:

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 the request as being vague and ambiguous, including but not limited to, as to the data being requested, as well as to the terms: "data dictionaries" and "internal documentation." Similarly the use of commas, qualifiers, "data," and "window[s]" renders the request unintelligible. Oracle further objects to this request as overbroad in scope and time, unduly burdensome, compound, 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 grounds that it seeks confidential information that relates to and invades the privacy rights of individuals who are not a party to this action.

During the meet and confer process, Oracle explained that this request, as written, seeks the export of the entire iRecruitment and Taleo databases, which involves a massive amount of data associated with tens of thousands of Oracle employees who are wholly unrelated to the allegations in the Amended Complaint. In response, OFCCP provided an explanation of what they were hoping to obtain with their request, stating that they were not in fact seeking the export of entire databases, thus providing an interpretation of the request that is contrary to its plain language, which, as written, seeks "include all data contained in Oracle's iRecruitment system

and Taleo system.” Oracle suggested that OFCCP narrow its requests to better reflect OFCCP’s stated intent.

Since these discussions, Oracle has continued to meet and confer with OFCCP to identify whether and how it can produce data related to this request. During the meet and confer process, Oracle has explained—with the assistance of eight witnesses produced to OFCCP to discuss Oracle’s databases and the modules and applications associated with them—that its databases were not designed for the purpose of exporting data en masse in the manner contemplated by OFCCP. Oracle has further explained that exporting data for the OFCCP will require scripts to be written that collect and generate the information sought by OFCCP as well as testing, confirmation, and quality control of the results of any data export. Notwithstanding the burdensome and time-consuming nature of this process—further illustrated by OFCCP’s eleven-page letter dated June 30, 2017 outlining in detail the various data they are seeking in Oracle’s databases—and Oracle’s objections as detailed above, Oracle continues actively working with OFCCP to provide it with data related to this request.

REQUEST FOR PRODUCTION NO. 75:

DATABASE(S) exported in a non-proprietary format, such as an Excel-readable file (e.g., .XLS or .CSV files), with data dictionaries and/or internal documentation describing the fields/outputs containing the following: applicant, offer, gender, and race data for TRANSFER EMPLOYEES into positions in the PT1 job group or Product Development line of business during the RELEVANT TIME PERIOD. Data should include all data contained in Oracle’s iRecruitment system and Taleo system, including data from (1) the “Candidate Details” window and all tabs shown on that window (i.e., including “Candidate Profile,” “Qualifications,” “Resumes and Documents,” “Jobs Considered for,” “Applications,” and “Offers”), (2) the “Vacancies” window and all tabs shown on that window (i.e., “Vacancy Details,” “Applicants,” and links, such as “Review Resume” and “Application Notes”).

RESPONSE TO REQUEST FOR PRODUCTION NO. 75:

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 the request as being vague and ambiguous, including but not limited to, as to the data being requested, as well as to the terms: “data dictionaries” and “internal documentation.” Similarly the use of commas, qualifiers, “data,” and “window[s]” renders the request unintelligible. Oracle further objects to this request as overbroad in scope and time, unduly burdensome, compound, 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 grounds that it seeks confidential information that relates to and invades the privacy rights of individuals who are not a party to this action.

During the meet and confer process, Oracle explained that this request, as written, seeks the export of the entire iRecruitment and Taleo databases, which involves a massive amount of data associated with tens of thousands of Oracle employees who are wholly unrelated to the allegations in the Amended Complaint. In response, OFCCP provided an explanation of what they were hoping to obtain with their request, stating that they were not in fact seeking the export of entire databases, thus providing an interpretation of the request that is contrary to its plain language, which, as written, seeks “include all data contained in Oracle’s iRecruitment system and Taleo system.” Oracle suggested that OFCCP narrow its requests to better reflect OFCCP’s stated intent.

Since these discussions, Oracle has continued to meet and confer with OFCCP to identify whether and how it can produce data related to this request. During the meet and confer process, Oracle has explained—with the assistance of eight witnesses produced to OFCCP to discuss Oracle’s databases and the modules and applications associated with them—that its databases were not designed for the purpose of exporting data en masse in the manner contemplated by

OFCCP. Oracle has further explained that exporting data for the OFCCP will require scripts to be written that collect and generate the information sought by OFCCP as well as testing, confirmation, and quality control of the results of any data export. Notwithstanding the burdensome and time-consuming nature of this process—further illustrated by OFCCP’s eleven-page letter dated June 30, 2017 outlining in detail the various data they are seeking in Oracle’s databases—and Oracle’s objections as detailed above, Oracle continues actively working with OFCCP to provide it with data related to this request.

REQUEST FOR PRODUCTION NO. 76:

DATABASE(S) exported in a non-proprietary format, such as an Excel-readable file (e.g., .XLS or .CSV files), with data dictionaries and/or internal documentation describing the fields/outputs containing the following: applicant, offer, gender, and race data for COLLEGE RECRUITS during the RELEVANT TIME PERIOD. Data should include all data contained in Oracle’s iRecruitment system, Taleo system, or other system, such as data from (1) the “Candidate Details” window and all tabs shown on that window (i.e., including “Candidate Profile,” “Qualifications,” “Resumes and Documents,” “Jobs Considered for,” “Applications,” and “Offers”), (2) the “Vacancies” window and all tabs shown on that window (i.e., “Vacancy Details,” “Applicants,” and links, such as “Review Resume” and “Application Notes”).

RESPONSE TO REQUEST FOR PRODUCTION NO. 76:

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 the request as being vague and ambiguous, including but not limited to, as to the data being requested, as well as to the terms: “data dictionaries” and “internal documentation.” Similarly the use of commas, qualifiers, “data,” and “window[s]” renders the request unintelligible. Oracle further objects to this request as overbroad in scope and time, unduly burdensome, compound, 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 grounds that it seeks confidential information that relates to and invades the privacy rights of individuals who are not a party to this action.

During the meet and confer process, Oracle explained that this request, as written, seeks the export of the entire iRecruitment and Taleo databases, which involves a massive amount of data associated with tens of thousands of Oracle employees who are wholly unrelated to the allegations in the Amended Complaint. In response, OFCCP provided an explanation of what they were hoping to obtain with their request, stating that they were not in fact seeking the export of entire databases, thus providing an interpretation of the request that is contrary to its plain language, which, as written, seeks “include all data contained in Oracle’s iRecruitment system and Taleo system.” Oracle suggested that OFCCP narrow its requests to better reflect OFCCP’s stated intent.

Since these discussions, Oracle has continued to meet and confer with OFCCP to identify whether and how it can produce data related to this request. During the meet and confer process, Oracle has explained—with the assistance of eight witnesses produced to OFCCP to discuss Oracle’s databases and the modules and applications associated with them—that its databases were not designed for the purpose of exporting data en masse in the manner contemplated by OFCCP. Oracle has further explained that exporting data for the OFCCP will require scripts to be written that collect and generate the information sought by OFCCP as well as testing, confirmation, and quality control of the results of any data export. Notwithstanding the burdensome and time-consuming nature of this process—further illustrated by OFCCP’s eleven-page letter dated June 30, 2017 outlining in detail the various data they are seeking in Oracle’s databases—and Oracle’s objections as detailed above, Oracle continues actively working with OFCCP to provide it with data related to this request.

REQUEST FOR PRODUCTION NO. 77:

ALL LABOR CONDITION APPLICATIONS for the RELEVANT TIME PERIOD,

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

including any LABOR CONDITION APPLICATIONS YOU submitted during the RELEVANT TIME PERIOD or any additional LABOR CONDITION APPLICATIONS YOU used to employ any PERSON during the RELEVANT TIME PERIOD.

RESPONSE TO REQUEST FOR PRODUCTION NO. 77:

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 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.

During its June 5, 2017 meet and confer with the OFCCP, Oracle explained its overbreadth objections. Oracle also stated that it understood that OFCCP already possessed many of the documents encompassed by this request and that compliance with this request would therefore be unreasonably burdensome and oppressive. Accordingly, Oracle requested that OFCCP provide Oracle with the list of individuals for whom it still had not received responsive documents. OFCCP provided this list as an attachment to its letter dated June 28, 2017.

Subject to this clarification and without waiving its objections, Oracle responds:

Oracle will, after conducting a reasonably diligent search, produce responsive, non-privileged documents in its possession, custody, or control.

REQUEST FOR PRODUCTION NO. 78:

ADVERSE IMPACT ANALYSES, as required by 41 C.F.R. § 60-3.15A, performed by YOU or any other PERSONS acting or purporting to act on YOUR behalf or at YOUR direction for the RELEVANT TIME PERIOD.

RESPONSE TO REQUEST FOR PRODUCTION NO. 78:

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 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. Oracle further objects to this request on the ground that it requires Oracle to refer to materials outside the request itself.

REQUEST FOR PRODUCTION NO. 79:

Evaluations of each step or component of the selection (i.e., HIRING) process, as described in 41 C.F.R. § 60-3.4(C), for positions in the PT1 job group and/or Product Development line of business for the RELEVANT TIME PERIOD.

RESPONSE TO REQUEST FOR PRODUCTION NO. 79:

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 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. Oracle further objects to this request on the ground that it requires Oracle to refer to materials outside the request itself.

During its meet and confer with OFCCP on June 5, 2017, Oracle explained its objections

and requested that OFCCP clarify and explain this request. Following OFCCP's explanation, Oracle requested that OFCCP provide a clarified or modified request in writing. OFCCP has yet to provide a clarified or modified request.

REQUEST FOR PRODUCTION NO. 80:

In-depth analyses of the total employment process, as required in 41 C.F.R. § 60-2.17(b), for positions in the PT1 job group or Product Development, Information Technology, and/or Support lines of business for the RELEVANT TIME PERIOD.

RESPONSE TO REQUEST FOR PRODUCTION NO. 80:

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 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. Oracle further objects to this request on the ground that it requires Oracle to refer to materials outside the request itself.

During its meet and confer with OFCCP on June 5, 2017, Oracle explained its objections and requested that OFCCP clarify and explain this request. Following OFCCP's explanation, Oracle requested that OFCCP provide a clarified or modified request in writing. OFCCP has yet to provide a clarified or modified request.

REQUEST FOR PRODUCTION NO. 81:

All DOCUMENTS RELATING TO training or other instruction YOU provided to any officers, executives, all levels of management, human resources and/or PERSONNEL

department(s) or division(s), and/or any other employee or PERSON acting or purporting to act on YOUR behalf or at YOUR direction, involved in HIRING and/or determining COMPENSATION that relates to YOUR Affirmative Action Program (AAP) or laws or policies prohibiting discrimination on the basis of gender or race during the RELEVANT TIME PERIOD.

RESPONSE TO REQUEST FOR PRODUCTION NO. 81:

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 phrases “training or other instruction,” “purporting to act,” “involved,” “determining,” and “discrimination.” 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.

During its June 5, 2017 meet and confer with Oracle, OFCCP clarified that this request is intended to obtain training or instruction that was relevant to the PT1 job group or Product Development.

Subject to and without waiving these objections, Oracle responds:

In light of this clarification, 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 ALJ Relevant Period

REQUEST FOR PRODUCTION NO. 82:

DOCUMENTS sufficient to show the eligibility requirements for any employment benefits offered to employees in the PT1 job group or Product Development, Information Technology, and/or Support lines of business during the RELEVANT TIME PERIOD, including but not limited to the following benefits: life insurance; retirement; vacation pay; sick pay; 401(k) profit sharing or retirement plans; stock options; DOCUMENTS governing any health,

dental, vision, disability, or other welfare plan; DOCUMENTS governing any sick, vacation, and holiday plans; and summary plan descriptions.

RESPONSE TO REQUEST FOR PRODUCTION NO. 82:

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 phrases “eligibility requirements” and “any employment benefits.” Oracle objects to the list of identified benefits as including the term “Documents,” which does not include or encompass benefits and renders the request unintelligible. 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 as premature and not relevant to the liability phase of trial.

REQUEST FOR PRODUCTION NO. 83:

Contact information for all current and former employees in the PT1 job group and Product Development, Information Technology, and Support lines of business during the RELEVANT TIME PERIOD, including: full name, home address, home phone number, mobile phone number, and home/personal email address.

RESPONSE TO REQUEST FOR PRODUCTION NO. 83:

Oracle incorporates by reference its Objections to Specific Definitions set forth above. Due to OFCCP’s lack of limitation or clarification to this request, Oracle maintains its objections 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 on the grounds that it seeks confidential information that relates to and invades the privacy rights of individuals who are not a party to this action.

As explained in separate meet and confer correspondence, Oracle objects to this request

based on the California Constitution, which provides protection for individual privacy and an obligation for employers to protect the privacy interests of its employees and former employees. This right to privacy extends to employees' privacy in their home addresses and other contact information. See *Planned Parenthood Golden Gate v. Superior Court*, 83 Cal. App. 4th 347, 359 (Cal. Ct. App. 2000). Under California law, third parties who have entrusted Oracle with their private contact information have a right to expect Oracle "to resist attempts at unauthorized disclosure" and the affected employees are entitled to expect that their "right[s] will be thus asserted." *Craig v. Municipal Court*, 100 Cal. App. 3d 69, 77 (Cal. Ct. App. 1979); see also *Bd. of Trustees v. Superior Court*, 119 Cal. App. 3d 516, 526 (Cal. Ct. App. 1981) ("[T]he custodian of such private information may not waive the privacy rights of persons who are constitutionally guaranteed their protection."). OFCCP's contention that the implementation of a protective order moots Oracle's objections is a conflation of two separate concerns; the protective order protects confidential information from getting into the hands of third parties to this litigation, but this does nothing to address Oracle's objection to providing the government, a party to this litigation, with employee contact information.

REQUEST FOR PRODUCTION NO. 84:

All DOCUMENTS RELATING TO any statistical analyses that YOU rely upon to deny any of the allegations in the AMENDED COMPLAINT, including all results, assumptions, variables, and analyses upon which YOU rely, and the computer code and formulas underlying the analyses.

RESPONSE TO REQUEST FOR PRODUCTION NO. 84:

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 phrases "statistical analyses," "results," "assumptions," "variables," "analyses," "computer code," and "formulas underlying the analyses." 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.

During the meet and confer process, Oracle explained that, to the extent it understands this request as written, it does not believe that it has responsive documents. In separate correspondence, Oracle represented that the only statistical analysis that Oracle has relied upon to date in denying the allegation of the Amended Complaint is the OFCCP's analysis that it attached to its Notice of Violation. Nevertheless, Oracle requested that OFCCP provide a clarified or modified request in writing that Oracle could understand. To date, OFCCP has not provided such a request.

REQUEST FOR PRODUCTION NO. 85:

For any and all analyses YOU provide in response to Request No. 84, provide the entire DATABASE YOU relied upon for each analysis.

RESPONSE TO REQUEST FOR PRODUCTION NO. 85:

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, 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.

During its meet and confer with OFCCP on June 6, 2017, Oracle explained its objections and requested that OFCCP clarify and explain this request. Following OFCCP's explanation, Oracle requested that OFCCP provide a clarified or modified request in writing. OFCCP has yet to provide a clarified or modified request.

REQUEST FOR PRODUCTION NO. 86:

For each DATABASE provided in response to Request No. 84, produce all written and electronic source DOCUMENTS that YOU relied upon to create and refine the DATABASE, including but not limited to DOCUMENTS relied upon to establish each PERSON's name, gender, race, position, education, work experience, and any other factor YOU included in the DATABASE.

RESPONSE TO REQUEST FOR PRODUCTION NO. 86:

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, 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 grounds that it seeks confidential information that relates to and invades the privacy rights of individuals who are not a party to this action. During its meet and confer with OFCCP on June 1, 2017, Oracle explained its objections and requested that OFCCP clarify and explain this request. Following OFCCP's explanation, Oracle requested that OFCCP provide a clarified or modified request in writing. OFCCP has yet to provide a clarified or modified request.

REQUEST FOR PRODUCTION NO. 87:

All DOCUMENTS RELATING TO validity studies or evaluations that YOU or someone on YOUR behalf conducted RELATING TO any step or component of the HIRING process for employees in the PT1 job group and Product Development line of business during the RELEVANT TIME PERIOD.

RESPONSE TO REQUEST FOR PRODUCTION NO. 87:

Oracle incorporates by reference its Objections to Specific Definitions set forth above. During the meet and confer process, Oracle requested that OFCCP clarify the specific tests or

selection procedures relevant to OFCCP's hiring claims on which Oracle would have conducted validity studies. OFCCP declined to specify and instead reiterated that this request is for any validity study that was conducted in relation to the hiring process. Due to OFCCP's lack of limitation or clarification, Oracle maintains its objections to this request on the grounds that it is vague and ambiguous, including but not limited to the phrases "validity studies or evaluations" and "any step or component." 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.

REQUEST FOR PRODUCTION NO. 88:

All DOCUMENTS RELATING TO validity studies or evaluations that YOU or someone on YOUR behalf conducted RELATING TO any step or component of the COMPENSATION determination process for employees in the Product Development, Information Technology, and Support lines of business during the RELEVANT TIME PERIOD.

RESPONSE TO REQUEST FOR PRODUCTION NO. 88:

Oracle incorporates by reference its Objections to Specific Definitions set forth above. During the meet and confer process, Oracle requested that OFCCP clarify the specific tests or selection procedures relevant to OFCCP's compensation claims on which Oracle would have conducted validity studies. OFCCP declined to specify and instead reiterated that this request is for any validity study that was conducted in relation to the compensation process. Due to OFCCP's lack of limitation or clarification, Oracle maintains its objections to this request on the grounds that it is vague and ambiguous, including but not limited to the phrases "validity studies or evaluations" and "any step or component." 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.

REQUEST FOR PRODUCTION NO. 89:

All DOCUMENTS YOU rely upon or reviewed in preparing YOUR ANSWER.

RESPONSE TO REQUEST FOR PRODUCTION NO. 89:

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 phrase “rely upon or reviewed.” Oracle further objects to this request as duplicative to other requests, 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 discussed 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 drafting its answer. 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 answer. 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 was deemed permissible under Rule 34, and OFCCP has yet to modify or limit this request in any way

REQUEST FOR PRODUCTION NO. 90:

All DOCUMENTS that support YOUR “Preliminary Statement” (pages 1-9) set forth in YOUR ANSWER.

RESPONSE TO REQUEST FOR PRODUCTION NO. 90:

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 phrase “support.” Oracle further objects to this request as duplicative to other requests, 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.

REQUEST FOR PRODUCTION NO. 91:

All DOCUMENTS that support YOUR responses in YOUR ANSWER denying each and every numbered paragraph to the AMENDED COMPLAINT.

RESPONSE TO REQUEST FOR PRODUCTION NO. 91:

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 phrase “support.” Oracle further objects to this request as duplicative to other requests, 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.

REQUEST FOR PRODUCTION NO. 92:

All DOCUMENTS that YOU plan to introduce as exhibits at the trial in this matter.

RESPONSE TO REQUEST FOR PRODUCTION NO. 92:

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 premature. Oracle further objects to this request to the extent it seeks the mental impressions of counsel, including information protected by the attorney-client privilege or the attorney work product doctrine.

Subject to and without waiving these objections, Oracle responds:

Oracle will timely produce responsive documents in accordance with the schedule set by the Administrative Law Judge.

July 12, 2017

GARY R. SINISCALCO
ERIN M. CONNELL



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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 SECOND 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