

**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

**DECLARATION OF ERIN CONNELL
IN SUPPORT OF ORACLE AMERICA,
INC.'S POSITION STATEMENT
REGARDING 41 CFR § 60-2.17(b)(3)**

CONNELL DECL. ISO ORACLE'S POSITION STATEMENT REGARDING 41 CFR § 60-2.17(b)(3)

CASE NO. 2017-OFC-00006

4131-0261-4815

Exhibit P-286

I, Erin M. Connell, declare as follows:

1. I am a member of the State Bar of California and authorized to practice before this Court. I am a partner with Orrick, Herrington & Sutcliffe LLP, attorneys of record for Defendant Oracle America, Inc. ("Oracle") in the above-titled action. I make this declaration in support of Oracle's Position Statement Regarding 41 C.F.R. § 60-2.17(b)(3). The facts set forth in this declaration I know to be true of my own personal knowledge, except where such facts are stated to be based on information and belief, and those facts I believe to be true. If called as a witness, I could and would testify competently to the matters set forth in this declaration.

2. Attached hereto as **Exhibit A** is a true and correct copy of a June 2, 2015 email sent by Shauna Holman-Harries email to Hea Jung Atkins.

3. Attached hereto as **Exhibit B** is a true and correct copy of an excerpt of Oracle's May 13, 2019 responses to OFCCP's Second Set of Interrogatories.

4. Oracle has produced in this case data and documents to demonstrate and reflect Oracle's evaluation of its compensation systems within the Information Technology, Product Development, and Support job functions, including data from Oracle's system of record related to compensation that were produced in October 2017 and May and June 2019 and reflect the evaluative processes Oracle undertakes to ensure fair and equitable decision-making.

I declare under penalty of perjury of the laws of the United States of America that the foregoing is true and correct.

Executed in San Francisco, California on October 3, 2019.


Erin M. Connell

EXHIBIT A

From: Shauna Holman Harries
To: Atkins, Hea Jung K - OFCCP
Cc: Luong, Hoan - OFCCP; Neil Bourque; Charles Nvakundi; Bill Couch; Lida Daniel; Vickie Thrasher
Subject: April 27 RFI Item 3
Date: Tuesday, June 02, 2015 10:27:47 AM

Hello Hea Jung. I am sending this email in response to your request #3 in your April 27 letter regarding internal pay equity analysis during. To answer your question, I refer you to the lengthy interview conducted with Lisa Gordon by Brian Mikel over two days on January 9 and 13, 2015. Mr. Mikel was also provided with an explanation of pay and the pay review process on January 9. In sum, pay equity at Oracle, and ensuring fairness and consistency among or between cohorts, is an-going process, and an integral part of Oracle's evaluation of its compensation systems.

During her interview with Mr. Mikel, Ms Gordon was asked extensively what Oracle has in place to assess employee pay and to ensure fairness and consistency relative to its jobs and the legitimate, non-discriminatory factors used by Oracle. In sum, she noted the role of HR or Compensation, and/or a manager, in reviewing where a new hire's pay falls relative to incumbent cohorts. She also referred to the Company's compensation policies and training materials we previously provided to OFCCP. She also identified the process of focal reviews as another tool to assess relative pay. She also identified the role played by Carolyn Balkenol and her team in essentially providing a further point of process quality control.

As you will also recall, Ms Balkenol was interviewed during the on-site. Although the OFCCP never provided any notes of her interview, which took place Thursday, March 26, Neil Bourque was present. As Ms Balkenol explained during this interview, she does not conduct any substantive review of pay decisions. Rather she does "quality control" of the hiring paperwork and process. She also was asked whether, at her level, the conversation is on raising or lowering salary. She said "no" and that in any such instance she would send it to "Compensation."

With regard to pay audits to assess legal compliance with Oracle's non-discrimination obligations and to further ensure Oracle's compensation policies and practices are carried out, those are conducted by our outside EEO compliance counsel at Orrick.

Best Regards,
Shauna Holman-Harries

ORACLE

Shauna Holman-Harries - Director Diversity Compliance
Phone: +1 602 333 9112 | Fax: +1 602 333 9112 | Mobile: +1 480 689 1858

"Working to create an inclusive, diverse culture that drives innovation and business success."
The information in this email is confidential and may be legally privileged. It is intended solely for the addressee. Access to this email by anyone else is unauthorized. If you are not the intended recipient,

any disclosure, copying, distribution, or any action taken or omitted to be taken in reliance on it, is prohibited and may be unlawful. No internal Oracle email, except that clearly intended for public distribution (e.g. Oracle Press Releases), should be sent to any party outside Oracle.



Oracle is committed to developing practices and products that help protect the environment

Oracle is committed to developing practices and products that help protect the environment. We are committed to reducing our carbon footprint and increasing our energy efficiency. We are committed to using sustainable materials and reducing our waste. We are committed to protecting our water resources and reducing our water consumption. We are committed to protecting our forests and reducing our deforestation. We are committed to protecting our oceans and reducing our plastic waste. We are committed to protecting our communities and reducing our environmental impact.

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EXHIBIT B

**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 OBJECTIONS
TO SECOND SET OF
INTERROGATORIES**

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

RESPONDING PARTY: Defendant ORACLE AMERICA, INC.

Pursuant to 41 C.F.R. § 60-30.9(a) and, as applicable, Rule 33 of the Federal Rules of Civil Procedure, Defendant Oracle America, Inc. (“Oracle”) responds to Plaintiff Office of Federal Contract Compliance Programs, United States Department of Labor’s (“OFCCP”) Second Set of Interrogatories 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 produce additional relevant facts that may lead to changes in the responses set forth below. Although these responses are complete to the best of Oracle’s knowledge at this time, these responses are given without prejudice to Oracle’s right to amend its objections and responses or to produce additional relevant evidence that may come to light regarding the issues raised in this lawsuit. Nothing contained in these responses shall in any way limit Oracle’s ability to make all 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

ORACLE’S OBJECTIONS TO SECOND SET OF INTERROGATORIES

- 1 -

CASE NO. 2017-OFC-00006

4145-8711-0684

INTERROGATORY NO. 15: DESCRIBE IN DETAIL all ANALYSES YOU conducted pursuant to 41 C.F.R. § 60-2.17(b) during the RELEVANT TIME PERIOD for YOUR PT1 Job Group, including those employees in the Information Technology, Product Development, and Support Job Functions, including but not limited to all actions YOU took related to action-oriented programs identified in 41 C.F.R. § 60-2.17(c).

RESPONSE TO INTERROGATORY NO. 15:

Oracle incorporates by reference its General Objections and its Objections to Specific Definitions set forth above. Oracle further objects to this Interrogatory on the grounds that it improperly conflates the relevant population for OFCCP's compensation claims (the Information Technology, Product Development, and Support Job Functions) with the relevant population for OFCCP's now-resolved hiring claims (the PT1 Job Group); because OFCCP's hiring claims have been resolved, Oracle reads this Interrogatory to refer only to employees in the Information Technology, Product Development, and Support Job Functions. Oracle further objects to this Interrogatory to the extent that it seeks information protected from disclosure by the attorney-client privilege or the attorney work product doctrine. Oracle further objects to this Interrogatory on the grounds that it is burdensome, oppressive, and not proportional to the needs of the case, particularly in that it requests that Oracle "describe in detail" every "analysis" that took place over a six-year period, which is both impractical and beyond the proper scope of an interrogatory. Oracle further objects to this Interrogatory to the extent it calls for information relating to portions of 41 C.F.R. § 60-2.17(b) or (c) beyond those relevant to employee compensation. In light of the April 30, 2019 Order Adopting Consent Findings, there are no longer any claims relating to hiring at issue in this case. Oracle therefore reads this Interrogatory to be limited to information relevant to OFCCP's compensation claims. Oracle further objects to this Interrogatory to the extent that it's reference to 41 C.F.R. § 60-2.17(c) assumes the existence or identification of any "problem areas" requiring "action-oriented programs." Oracle further objects to this Interrogatory to the extent it seeks to expand OFCCP's claims beyond the limitations imposed by Judge Clark's March 13, 2019 Order, which expressly bounded OFCCP's

claims as they relate to Oracle's Affirmative Action Program ("AAP") and precluded any "deficiency" claim. OFCCP's AAP-oriented claims are therefore limited to whether Oracle maintained and made available to OFCCP certain documentation of its AAP, and any inquiry into whether Oracle's AAP met substantive legal standards or requirements is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

Without waiver of the foregoing objections, and subject thereto, Oracle responds as follows: Oracle utilizes a decentralized compensation system in which employees' managers are the primary decisionmakers, with assistance from HR and/or Oracle's compensation team if requested. Individual managers making compensation decisions take a comprehensive view, and are encouraged to consider (and do consider) the relative pay among employees on their particular teams in order to account for pay equity and fairness, while still accounting for other relevant factors influencing pay. Oracle's compensation guidelines and training expressly instruct managers that differences in pay need to be based on fair, justifiable and non-discriminatory criteria, and Oracle further trains and instructs managers to make all employment decisions, including compensation decisions, without regard to employees' gender, race or any other protected characteristic. Managers also are periodically allocated pay increase budgets they can use, among other reasons, to better align employee pay on their teams and to address any perceived pay equity problems they encounter. Managers may also make off-cycle pay increases for the same or similar reasons. Thus, when individual managers consider pay equity as part of their evaluation and compensation decisions, and/or make pay changes to better align within their teams and/or address any perceived pay equity problems, such consideration and actions occur in real-time and, in many cases, may not be documented. Nevertheless, Oracle has produced substantial data, documents, and information – in response to other discovery requests – that captures manager compensation decisions and the rationale for those decisions, including but not limited to manager workflow justifications and off-cycle pay increase justifications.

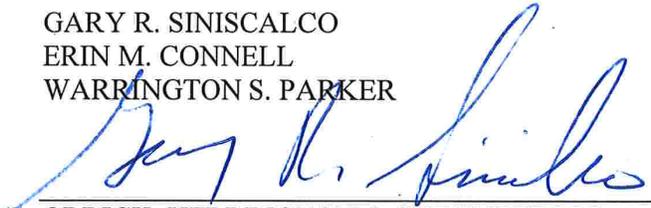
INTERROGATORY NO. 16: DESCRIBE IN DETAIL all actions YOU took during the RELEVANT TIME PERIOD in response to any ANALYSES YOU conducted pursuant to 41 C.F.R.

RESPONSE TO INTERROGATORY NO. 19:

Oracle incorporates by reference its General Objections and its Objections to Specific Definitions set forth above. Oracle further objects to this Interrogatory on the grounds that it is burdensome, oppressive, and not proportional to the needs of the case in that it requests that Oracle “describe in detail” every single factor that may have been considered in numerous hiring decisions across multiple years. Oracle further objects to this Interrogatory on the grounds that, in light of the April 30, 2019 Order Adopting Consent Findings, there are no longer any claims relating to hiring at issue in this case. As a result, this Interrogatory relates to matters that are now irrelevant and is thus not reasonably calculated to lead to the discovery of admissible evidence.

May 13, 2019

GARY R. SINISCALCO
ERIN M. CONNELL
WARRINGTON S. PARKER



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VERIFICATION

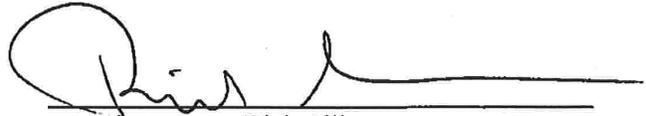
I, Rich Allison, declare I am the Senior Vice President, Global Practices and Risk Management, for Oracle America, Inc., and am authorized to make this verification on its behalf.

I have read the following:

DEFENDANT ORACLE AMERICA, INC.'S OBJECTIONS TO SECOND SET OF INTERROGATORIES

and know its contents. I am informed and believe that the matters stated therein are true and on that ground declare under penalty of perjury under the laws of the United States of America that the same are true and correct and that this verification was executed on May 10, 2019 in

Redwood City, California.



Rich Allison