

**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

**JOINT STATUS REPORT RE
CONFIDENTIALITY OF
HEARING EXHIBITS;
STIPULATION RE
SCHEDULING; AND PROPOSED
ORDER**

RECEIVED

JAN 17 2020

Office of Administrative Law Judges
San Francisco, CA

Pursuant to the Court's Order Regarding Motions to Seal and Hearing Confidentiality dated December 4, 2019, Plaintiff Office of Federal Contract Compliance Programs ("OFCCP") and Defendant Oracle America, Inc. ("Oracle") (collectively "Parties") hereby submit the following Joint Status Report Regarding Confidentiality of Hearing Exhibits.

The Parties Resolution of Disagreements

The Parties met and conferred through correspondence and in person regarding the hearing exhibits on which the Parties had not reached agreement as detailed in the December 20, 2019 Joint Status Report (Category 3.c. of the Court's December 4, 2019 Order). The Parties

JOINT STATUS REPORT AND [PROPOSED] ORDER RE HEARING EXHIBITS

made, and continue to make, significant progress in resolving their disagreements regarding these documents, with OFCCP agreeing in some cases to abandon its opposition and Oracle agreeing in some cases to remove or narrow its designations. The documents in category 3.c. to which the Parties have resolved their disagreements, and which can now be included in category 5.a. (Documents the Parties agree do not contain any private or confidential material and can be made available to the public) or 5.b. (Documents the Parties agree contain private or confidential material and agree on the appropriate redactions) are as follows:

Exhibits in Category 5.a. of the December 4, 2019 Order

In addition to the documents the Parties listed in the December 20, 2019 status statement, the Parties agree that the following hearing exhibits fall within Category 5.a. of the Court's December 4, 2019 Order, i.e. the exhibits for which there is no private or confidential information that requires redaction and may therefore be made available to the public. The Parties' understand the Court already has copies of the following exhibits in their unredacted form:

- **Joint Exhibits:** J-128, J-135, and J-154.
- **Plaintiff's Exhibits:** P-360, P-378, and P-412.
- **Defendant's Exhibits:** D-317 and D-320.

Exhibits in Category 5.b. of the December 4, 2019 Order

The Parties agree that the following exhibits contain private and/or confidential information and agree to the redactions submitted electronically with this Joint Status Report:

- **Joint Exhibits:** J-9, J-23, J-24, J-88, J-105, J-111, J-115, J-127, J-138, J-139, and J-141
- **Plaintiff's Exhibits:** P-29, P-30, P-32, P-45, P-53, P-72, P-74, P-75, P-77, P-106, P-111, P-113, P-115, P-116, P-120, P-121, P-122, P-126, P-127, P-128, P-150, P-155, P-156, P-159, P-163, P-165, P-174, P-180, P-189, P-190, P-252, P-258, P-335, P-337, P-338, P-339, P-342, P-345, P-346, P-347, P-349, P-350, P-351, P-353, P-415, P-425, P-449, P-

495, P-499, and P-504.

- **Defendant's Exhibits:** D-6, D-7, D-12, D-21, D-46, D-144, D145, D-146, D-147, D-191, D-246, D-247, D-289, D-331, D-334, D-347, D-349, D-355, D-378, D-396, D-413, D-414, D-415, D-416, and D-417.

The Parties further agree that following Excel data files should be sealed in their entirety, but that the portion of the exhibit that was submitted to the Court as a pdf (e.g. the cover page or cover email) does not need to be sealed. The Parties understand that the Court already has electronic copies of the Excel file portions of the exhibits in question:

- **Joint Exhibits:** J-14; J-107, J-131, J-134, J-136, J-156, and J-163.
- **Plaintiff's Exhibits:** P-9, P-132, P-259, P-260, P-320, P-365, P-366, P-367, P-368, P-369, P-370, P-371, P-372, P-373, P-374, P-375, P-376, P-377, P-380, P-381, P-382, P-383, P-384, P-385, P-386, P-387, P-388, P-389, P-390, P-391, P-392, P-393, P-394, P-395, P-396, P-397, P-398, P-399, P-400, P-401, P-402, P-403, P-404, P-405, P-406, P-407, P-408, P-409, P-410, P-411, P-414, P-428, P-429, P-432, and P-433.
- **Defendant's Exhibits:** D-41, D-45, D-264, D-265, D-266, D-300, D-301, D-302, D-303, D-305, D-306, D-309, D-311, D-312, D-313, D-321, D-324, D-325, D-328, D-343, D-344, and D-444.

Exhibits in Category 5.c. of the December 4, 2019 Order and The Parties' Likely Resolution of Disagreements Upon Further Meet and Confers

The parties have not yet reached agreement regarding the confidentiality of the exhibits listed below. However, the parties believe that if they have additional time to meet and confer, they will be able to reach additional agreements. During the Parties' meet and confer each side agreed to revisit their positions about certain "categories" of information found in numerous hearing exhibits. The parties also note that they have not received all transcripts of the hearing, so do not have the complete record of the information publicly disclosed during the hearing, which would likely resolve some of the outstanding issues regarding the documents.

The documents on which the Parties have met and conferred and have not yet come to agreement are:

- **Joint Exhibits:** J-10, J-15, J-25, J-27, J-40, J-70, J-78, J-103, J-104, J-106 to J-110, J-113, J-114, J-116 to J-121, J-126, J-128, J-135, J-140, J-144, J-146, J-149, J-150, J-153, and J-160.
- **Plaintiff's Exhibits:** P-1, P-8, P-9, P-28, P-34, P-37 to P-39, P-41, P-46, P-64, P-65, P-76, P-82, P-83, P-85, P-86, P-90 to P-92, P-94 to P-105, P-112, P-114, P-117, P-123 to P-125, P-129, P-133, P-141, P-146 to P-149, P-151, P-152, P-154, P-157, P-158, P-162, P-164, P-166 to P-171, P-175 to P-178, P-181 to P-184, P-186, P-188, P-191, P-198, P-226, P-266, P-267, P-274, P-294, P-298, P-299, P-301, P-303, P-312 to P-318, P-321, P-322, P-327, P-328, P-334, P-348, P-357, P-360, P-378, P-379, P-412, P-413, P-419, P-434, P-435, P-444, P-469, P-470, P-472 to P-494, P-496 to P-498, P-501 to P-503, and P-505 to P-512.
- **Defendant's Exhibits:** D-17, D-24 to D-32, D-35, D-40, D-47, D-56 to D-83, D-112, D-113, D-115 to D-117, D-126 to D-143, D-148 to D-173, D-175 to D-190, D-192 to D-202, D-258, D-262, D-263, D-295 to D-299, D-307, D-308, D-317 to D-320, D-323, D-330, D-332, D-333, D-335 to D-341, D-346, D-348, D-350 to D-354, D-356, D-369, D-375 to D-377, D-379, D-383, D-390, D-392 to D-395, D-397 to D-412, D-418 to D-421, D-429 to D-435, D-437, D-445, and D-449.

Parties Joint Statement and Stipulation on Scheduling

Given the volume of documents to which the Parties' believe they can reach agreement after review and revision and further meet and confers, and the fact that the hearing transcript has not been filed (which would aid the Parties in resolving some disagreements), the Parties jointly request an extension of the deadlines in the Court's January 7, 2020 Order Modifying Briefing Schedule Re: Sealing Hearing Exhibits. An extension of these deadlines would afford sufficient time to review the revised documents, the compromises proposed, and participate in additional meet and confers. The Parties propose:

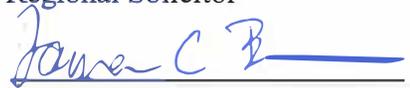
- Item 6, requiring the briefs to be filed on January 24, 2020 be extended to Thursday, February 6, 2020;
- Item 6, requiring reply briefs to be filed on January 31, 2020 be extended to Thursday, February 13, 2020.

January 17, 2020

Respectfully submitted,

KATE O'SCANNLAIN
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JANET M. HEROLD
Regional Solicitor



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ORACLE AMERICA, INC.

[PROPOSED] ORDER

This matter arises under Executive Order 11246 (30 Fed. Reg. 12319), as amended and associated regulations at 41 C.F.R. Chapter 60. It involves Plaintiff Office of Federal Contract Compliance Programs (“OFCCP”) and Defendant Oracle America, Inc. (“Oracle”). Hearing was held between December 5, 2019, and December 17, 2019. On December 4, 2019, I issued an Order Regarding Motions to Seal and Hearing Confidentiality that provided some guidance regarding the parties’ disputes about sealing submissions to this agency, to include the hearing exhibits. The December 4, 2019, order provided a briefing schedule involving a December 20, 2019, status report, followed by additional meet and confer and another status report on January 13, 2020. Motions to seal and oppositions were due by January 17, 2020, with reply briefs due on January 22, 2020. On January 7, 2020, I issued an Order granting OFCCP’s request for extension of time on the schedule with the following modifications: the second joint status report was due January 17, 2020, the motions to seal and opposition were due January 24, 2020, and the reply briefs were due on January 31, 2020.

The parties filed their second joint status report as scheduled on January 17, 2020. As part of the report, the parties included a joint request for an extension of time on the remainder of the schedule, requesting the motions to seal be due on February 6, 2020, and the oppositions due on February 13, 2020. The parties stated that with additional time they could engage in further meet and confers and narrow their disagreements. The proposed extensions are minimal. The parties’ request is accordingly granted.

Pursuant to the Parties’ stipulation, the Court orders:

1. The motions to seal and oppositions are due February 6, 2020, and the reply briefs are due on February 13, 2020.

IT IS SO ORDERED.

Date: January __, 2020

THE HON. RICHARD M. CLARK

Administrative Law Judge



2017-OFC-00006

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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 January 17, 2020, I served the interested parties in this action with the following document(s):

JOINT STATUS REPORT RE CONFIDENTIALITY OF HEARING EXHIBITS; STIPULATION RE SCHEDULING; AND PROPOSED ORDER

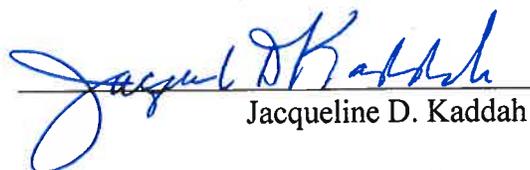
by serving true copies of these documents via electronic mail in Adobe PDF format the documents listed above to the electronic addresses set forth below:

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

Executed on January 17, 2020, at San Francisco, California.



Jacqueline D. Kaddah