

# **Exhibit G**

**U.S. Department of Labor**

Office of Federal Contract  
Compliance Programs  
200 Constitution Avenue, N.W.  
Washington, D.C. 20210



**MAR 13 2018**

Will Evans  
The Center for Investigative Reporting  
1400 65<sup>th</sup> Street, Suite 200  
Emeryville, CA 94608

RE: Freedom of Information Act Request – Tracking No. 846575

Dear Mr. Evans:

This letter is our final response to your Freedom of Information Act (FOIA) request. Please refer to the above-referenced FOIA tracking number in any future correspondence regarding this request.

Under FOIA, you requested copies of the correspondence between OFCCP and the eight (8) federal contractors who objected to the release of EEO-1 data under FOIA 838133. We have previously released the OFCCP originated correspondence. For the contractor originated correspondence, OFCCP was required to notify each company that their correspondence has been requested under the FOIA. The companies then have an opportunity to object in writing to disclosure of any specified portion of the requested information in accordance with 29 CFR § 70.26 and Executive Order 12600. The results are listed in Attachment A.

We consider you to be a “news media” type of requestor. As a “news media” requestor, you are charged for photocopying after the first 100 pages in accordance with the U.S. Department of Labor FOIA regulations at 29 CFR § 70.40(c)(4). We determined that the costs were de minimis and are not charging you for this request. We believe we have been responsive to your FOIA request. Should you have questions, please contact this office at (202) 693-0101 or by email at [OFCCP\\_NO\\_FOIA@dol.gov](mailto:OFCCP_NO_FOIA@dol.gov).

If you need any further assistance or would like to discuss any aspect of your request, please do not hesitate to contact this office or the DOL FOIA Public Liaison, Thomas Hicks, at (202) 693-5427. Alternatively, you may contact the Office of Government Information Services within the National Archives and Records Administration (OGIS) to inquire about the mediation services they offer. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740-6001. You can also reach that office by e-mail at [ogis@nara.gov](mailto:ogis@nara.gov), by phone at (202) 741-5770, by fax at (202) 741-5769, or by calling toll-free at (877) 684-6448.

If you are not satisfied with the response to this request, you may administratively appeal by writing to the Solicitor of Labor within 90 days from the date of this letter. The appeal must state in writing the grounds for the appeal, and it may include any supporting statements or arguments, but such statements are not required. In order to facilitate processing of the appeal, please include your mailing address and daytime telephone number, as well as a copy of the initial request and copy of this letter. The envelope and letter of the appeal should be clearly marked "Freedom of Information Act Appeal." Any amendment to the appeal must be made in writing and received prior to a decision. The appeal should be addressed to the Solicitor of Labor, Division of Management and Administrative Legal Services, U.S. Department of Labor, 200 Constitution Avenue, NW, Room N2420, Washington, DC 20210. Appeals may also be submitted by email to foiaappeal@dol.gov. Appeals submitted to any other email address will not be accepted.

Sincerely,

A handwritten signature in blue ink that reads "D. Lissette Geán". The signature is fluid and cursive, with a horizontal line extending from the end.

D. Lissette Geán  
Special Assistant

Attachment

Attachment A

Companies that objected to the release of their data on the grounds of FOIA Exemption 4 in FOIA 838133.

- Gilead Sciences
- HP
- Oracle
- Palantir
- Pandora Media
- PayPal
- Splunk Inc
- Synnex

Companies that have objected to the release of their correspondence under Exemption 4.

- Gilead Sciences
- Oracle
- Palantir
- Pandora Media
- Splunk Inc
- Synnex

Companies that have not objected to the release of their correspondence under Exemption 4.

- HP
- PayPal

[REDACTED]

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**From:** DeMeester, Mark <(b) (6), (b) (7)(C)>  
**Sent:** Wednesday, November 29, 2017 4:39 PM  
**To:** OFCCP NO FOIA  
**Subject:** RE: FOIA Request 838133 to HP Inc.

Bruce, will get back to you shortly—tied up in meetings today. Will call. Regards, Mark

**From:** OFCCP NO FOIA [[mailto:OFCCP\\_NO\\_FOIA@DOL.GOV](mailto:OFCCP_NO_FOIA@DOL.GOV)]  
**Sent:** Tuesday, November 28, 2017 1:03 PM  
**To:** DeMeester, Mark <(b) (6), (b) (7)(C)>  
**Subject:** RE: FOIA Request 838133 to HP Inc.

(b) (7)(E), (b) (5)

Thank you.

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**From:** DeMeester, Mark (b) (6), (b) (7)(C)  
**Sent:** Monday, September 11, 2017 3:58 PM  
**To:** OFCCP NO FOIA  
**Cc:** DeMeester, Mark  
**Subject:** RE: FOIA Request 838133 to HP Inc.

**From:** DeMeester, Mark (b) (6), (b) (7)(C)  
**Sent:** Thursday, September 07, 2017 1:44 PM  
**To:** OFCCP NO FOIA  
**Subject:** FW: FOIA Request 838133 to HP Inc.

Dear Ms. Spaulding:

This responds to the recent FOIA request, 838133, seeking Hewlett-Packard's 2015 EEO-1 report, and supplements my email of Thursday September 7, 2017.

In my earlier email, I incorrectly indicated that HP had made public its 2015 EEO-1 Consolidated Report, and provided a link that I understood set out that particular EEO-1 Consolidated Report. In fact, that link currently will take the reader to HP's 2016 EEO-1. HP's 2015 EEO-1 has never been made public.

The information HP provided in its 2015 Sustainability Report through the previously referenced link is set out in the enclosed document. The demographic information is quite detailed, although it does not match exactly with that set out in the 2015 EEO-1 form. Please feel free to pass on the enclosed document to the requesting party, and hopefully this will be sufficient.

HP objects to the request for its 2015 EEO-1 for a number of reasons, which it can set out in greater detail if it is necessary.

Please advise once you have had an opportunity to review, and if you need additional information.

Mark DeMeester  
Senior Employment Counsel  
Global Legal Affairs  
HP Inc.  
11311 Chinden Blvd.  
Boise, Idaho 83714

**From:** OFCCP NO FOIA [[mailto:OFCCP\\_NO\\_FOIA@DOL.GOV](mailto:OFCCP_NO_FOIA@DOL.GOV)]  
**Sent:** Thursday, September 7, 2017 2:49 PM  
**To:** DeMeester, Mark <(b) (6), (b) (7)(C)>  
**Subject:** RE: FOIA Request 838133 to HP Inc.

received

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**From:** DeMeester, Mark [(b) (6), (b) (7)(C)]  
**Sent:** Thursday, September 07, 2017 1:44 PM  
**To:** OFCCP NO FOIA  
**Subject:** FW: FOIA Request 838133 to HP Inc.

Dear Ms. Spaulding:

This responds to the recent FOIA request, 838133, seeking Hewlett-Packard's 2015 EEO-1 report.

Please be advised that HP has made public its 2015 EEO-1 Consolidated Report. The link for this Report is contained within the HP 2015 Sustainability Report, which can be viewed at: <http://www8.hp.com/us/en/hp-information/global-citizenship/index.html>. (For the 2015 EEO-1, see link at page 97 of the Sustainability Report).

I hope that this will satisfy the above request. Let me know if you have any challenges with the link described above.

Please advise once you have had an opportunity to review if you need additional information.

Mark DeMeester  
Senior Employment Counsel  
Global Legal Affairs  
HP Inc.  
11311 Chinden Blvd.  
Boise, Idaho 83714

**From:** OFCCP NO FOIA [[mailto:OFCCP\\_NO\\_FOIA@DOL.GOV](mailto:OFCCP_NO_FOIA@DOL.GOV)]  
**Sent:** Wednesday, September 6, 2017 3:00 PM  
**To:** DeMeester, Mark <[mark.demeester@hp.com](mailto:mark.demeester@hp.com)>  
**Subject:** RE: FOIA Request 838133 to HP Inc.

Employees

Women employees [% of total]	2011	2012	2013	2014	2015
Americas	33.3%	33.1%	33.5%	33.3%	33.1%
Asia Pacific and Japan	32.3%	32.6%	33.1%	33.0%	33.5%
Europe, Middle East, and Africa	29.8%	30.0%	30.3%	31.2%	32.0%
Worldwide	32.0%	32.1%	32.5%	32.6%	33.0%
Women managers [% of total]					
Americas	28.7%	30.1%	30.1%	30.7%	30.8%
Asia Pacific and Japan	22.3%	22.2%	21.8%	22.0%	21.8%
Europe, Middle East, and Africa	20.9%	22.4%	23.3%	24.2%	25.8%
Worldwide	24.8%	25.5%	25.6%	26.2%	26.6%
Global new hires, by gender* [% of total]					
Female	32.7%	34.6%	36.2%	35.1%	36.5%
Male	67.3%	65.4%	63.8%	64.9%	63.4%
U.S. new hires, by race and ethnicity** [% of total]					
White	52.4%	64.8%	54.0%	52.1%	44.7%
All minorities	31.1%	34.9%	46.0%	35.1%	29.4%
Black	7.7%	10.8%	11.3%	9.8%	9.0%
Hispanic	6.7%	7.5%	9.1%	6.7%	4.8%
Asian	14.6%	12.6%	15.3%	15.6%	12.9%
Native American	0.4%	0.3%	0.4%	0.4%	0.3%

\*Sum of Female and Male for 2015 does not equal 100% due to a small number of new hires that did not disclose gender.  
 \*\*Sum of White and all minorities does not equal 100% and sum of Black, Hispanic, Asian, and Native American does not equal the total for all minorities because some people may declare or omit to fall into these categories. For the purpose of this table, those who did not declare were not included in the analysis nor placed into a default classification.



January 29, 2018

**VIA E-MAIL ONLY (OFCCP NO FOIA@DOL.GOV)**

Bruce G. Andersen  
National Office FOIA Coordinator  
Office of Federal Contract Compliance Programs  
U.S. Department of Labor  
200 Constitution Avenue, NW, Room C3325  
Washington, DC 20210

Re: PayPal Holdings, Inc. - Business Information Submitter Notification - FOIA  
Request Tracking No. 838133

Dear Mr. Andersen:

I am the Director, Legal - Employment for PayPal Holdings, Inc. ("PayPal" or "the Company"). We were informed that the Office of Federal Contract Compliance Programs received a request pursuant to the Freedom of Information Act ("FOIA" or "the Act"), 5 U.S.C. § 552 from the Center for Investigative Reporting for disclosure of all EEO-1 Reports filed by the Company during the 2015 filing period. By letter received on or about November 29, 2017, you notified PayPal of the request and invited PayPal to submit any objection within thirty days. In an email exchange on December 28, 2017, you kindly granted PayPal an extension until January 29, 2018 to respond to the request.

Although PayPal is committed to diversity and inclusion, PayPal objects to the disclosure of both its consolidated EEO-1 Report and all EEO-1 Reports related to its individual establishments. PayPal operates a worldwide network of online payment systems through subsidiaries which support online money transfers utilized by individuals, vendors, auction sites, and other commercial users. As such, as a matter of competitive advantage, PayPal carefully guards information about its staffing, its product lines, and the workforce composition for all of its subsidiaries. The disclosure of the data contained in any of its EEO-1 Reports, particularly its individual establishment reports, would cause substantial competitive harm to PayPal. Therefore, because PayPal's EEO-1 Reports are covered by FOIA Exemptions 3 and 4 (5 U.S.C. § 552(b)(3) and (b)(4)), we respectfully request that this information not be disclosed.

#### **I. BACKGROUND**

PayPal is a dynamic global corporation with decentralized operations spread across multiple subsidiaries and locations throughout the world and within the United States. PayPal's products are concentrated in the field of digital payments, which is rapidly evolving due to the development of new technology, the increasing interest in blockchain-based currency, and the entry of both new startup companies and traditional brick and mortar financial institutions as participants in the digital payments market. Foreign and domestic



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companies are continually attempting to move into new markets and to increase existing market shares. Due to rapid changes in technology, companies such as PayPal must devote substantial resources to product research, design, and development. In order to remain competitive, PayPal must closely guard information that would enable its competitors to anticipate and, thus, exploit, shifts in market strategy. Given this dynamic competitive environment and the pressures to develop new products and to reduce costs on established products, the industry places a high premium on obtaining current, accurate information about competitors' operations. Therefore, PayPal carefully guards information about its workforce composition.

Diversity and inclusion are of paramount importance to PayPal. Dan Schulman, PayPal CEO, recently outlined PayPal's position on this issue:

PayPal is committed to making a positive difference in the world. Our ability to deliver on our mission of democratizing financial services and capabilities starts from the inside; by building a global team of employees that reflects the communities where we work and live, and the diversity of the customers we serve. That's why Inclusion is a core value and defines who we are and everything we do. For PayPal, bringing this value to life means building an ever more inclusive company culture, built on respect for individual differences, life experiences, knowledge, and the self-expression of our colleagues.

See <https://www.paypal.com/stories/us/our-commitment-to-diversity-and-inclusion-at-paypal>.

PayPal has deemed its EEO-1s to be confidential and does not make them available to the public. Accordingly, PayPal has taken great care to ensure the confidentiality of its EEO-1 Reports, including appropriate steps to protect this competitively important information and to ensure that third parties are not permitted to obtain it in the normal course of business. Internally, PayPal limits access to this information.

## **II. LEGAL STANDARD**

FOIA provides that any person has the right to request access to federal agency records or information. However, agencies must withhold information pursuant to specific exemptions and three exclusions contained in the statute. Here, two of the exemptions apply.

First, Section 552(b)(3) of the Act creates certain exemptions to the disclosure obligations otherwise provided in the Act. The Trade Secrets Act, 18 U.S.C. § 1905 ("Section 1905"), prohibits the disclosure by federal agency personnel of confidential trade, statistical and commercial data of any corporation and is applicable to disclosure requests made under the FOIA. Chrysler Corp. v. Brown, 441 U.S. 281 (1979). Second, Section

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552(b)(4) of the FOIA exempts from disclosure matters that consist of "trade secrets and commercial or financial information obtained from a person and privileged or confidential." Contract Freighters, Inc. v. Secretary of the U.S. Dept. of Transportation, 260 F.3d 858 (8th Cir. 2001) (internal citations omitted) (noting that it is well established that when the information sought to be disclosed is provided to the Government on a mandatory basis, commercial or financial matters are confidential and may not be released when "disclosure of the information . . . is likely to have either of the following effects: (1) to impair the Government's ability to obtain necessary information in the future; or (2) to cause substantial harm to the competitive position of the person from whom the information was obtained").

Disclosure of PayPal's EEO-1 Reports to the Center for Investigative Reporting, which has demonstrated an intent to widely distribute the data contained therein, would also violate the OFCCP's regulations applicable to the examination and copying of its documents. 41 C.F.R. Part 60-40. These regulations specifically state that they are designed to implement the Act, and the exemptions from disclosure outlined in the paragraph above are equally relevant with respect to these regulations as well. Further, PayPal's EEO-1 Reports, specifically its individual establishment reports, contain confidential commercial or financial information, staffing patterns, workforce distributions and resource allocation. Disclosure of such data would provide competitors with information with respect to the company's shift and change in personnel, which is not currently available to the public. Indeed, the release of this information would result in substantial competitive harm.

PayPal clearly meets the requirements for exemption from disclosure under the FOIA and under the other applicable statutes and regulations referred to above. Accordingly, its EEO-1 Reports should not be disclosed.

### **III. DISCLOSURE OF THE EEO-1 REPORTS WOULD CAUSE SUBSTANTIAL COMPETITIVE HARM TO PAYPAL**

PayPal submitted the information set forth in its EEO-1 Reports in order to comply with the requirements of Title VII of the Civil Rights Act of 1964, as amended, and E.O. 11246 and its implementing regulations. The disclosure of its EEO-1 Reports, particularly its individual establishment reports, to the Center for Investigative Reporting could result in substantial harm to its competitive position in the industries in which it operates in at least two ways. First, it would permit a competitor to ascertain the costs and volume of services of PayPal's and its subsidiaries. Second, the Reports could be used to measure the resources being dedicated to research and development, particularly in the product or technology areas, by geographical location, which is a competitive concern. Thus, PayPal respectfully submits that the EEO-1 Reports should not be disclosed.

A substantial part of PayPal's business is dependent upon competitively-negotiated contracts with merchants that use PayPal's payments services and contracts with a variety of service providers. The development, testing, and marketing of the products and services PayPal offers is labor intensive; that is, much of the cost of any single item is attributable to the cost of paying the employees, some of whom are skilled technicians and professionals,

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such as engineers, and some of whom are unskilled. The requested EEO-1 Reports, particularly those reports containing information on individual establishments, would be useful to a sophisticated competitor interested in determining PayPal's business development and business performance strategies. The EEO-1 Reports provide the total number of employees in each of nine major job categories—Executive/Senior Level Officials and Managers; First/Mid-Level Officials & Managers; Professionals; Technicians; Sales Workers; Administrative Support Workers; Craft Workers; Operatives; Laborers & Helpers; and Service Workers. Armed with this information, a competitor could, for example, discover PayPal's business development strategies by analyzing its workforce composition by location.

Data on PayPal's workforce composition could also provide a competitor with useful insight as to how it might more successfully compete with PayPal by supplementing its own workforce to match or exceed PayPal's staff. A competitor might seize the opportunity to enter a particular sector or region if PayPal's workforce indicated that the Company had reduced its resources in a particular area.

Not surprisingly, for these reasons, disclosure of EEO-1 Reports has routinely been forbidden because of the consequent harm to the competitive position of the submitter. See, e.g., Rubbermaid, Inc. v. Kleppe, 14 Fair Empl. Prac. Cas. 1422, 1423 (D. Md. 1976); Westinghouse Electric Corp v. Schlesinger, 92 F. Supp. 1246 (E.D. Va. 1974), aff'd, 542 F.2d 1190 (4th Cir. 1976); United States Steel Corp. v. Schlesinger, 8 Fair Empl. Prac. Cas. 923 (E.D. Va. 1974), aff'd sub nom., Westinghouse Electric Corp v. Schlesinger, 542 F.2d 1190 (4th Cir. 1976); Holiday Inn, Inc. v. Kleppe, 13 Fair Empl. Prac. Cas. 1337 (W.D. Tenn. 1976).

The U.S. Supreme Court in Detroit Edison Co. v. NLRB, 440 U.S. 301 (1979) has also recognized that equal opportunity data submitted under Government mandate is sensitive data that should be afforded protection from disclosure. Further, courts have emphasized that agencies should carefully assess a FOIA request and "recognize the legitimate concerns of the contractors involved." Gen. Motors Corp. v. Marshall, 654 F.2d 294, 301 (1979). In General Motors Corp., the court explained the necessity, for agencies to exercise such caution:

Once an agency has released a particular record pursuant to an FOIA request, that record is available to all the world for all time: the agency can neither prevent the requester from disseminating the document to others nor deny a later request for the same document by a different party. The agency must assume that any document disclosed under the FOIA will eventually and inevitably find its way into the possession of the submitter's competitors.

Id. at n.16.

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PayPal clearly meets the requirements for exemption from disclosure under the FOIA and other applicable statutes and regulations;<sup>1</sup> PayPal's EEO-1 Reports should therefore not be released.

#### **IV. CONCLUSION**

For all of the reasons stated above, PayPal objects to the disclosure of both its consolidated EEO-1 Report and all EEO-1 Reports related to its individual establishments to the Center for Investigative Reporting. Further, the Company, consistent with the Department of Labor's regulations set forth at 29 C.F.R. Part 70.26, hereby respectfully requests that your office give it sufficient advance notice of any decision on this matter so that it may take appropriate action, including exhausting all appeal procedures available within the Department of Labor and in a court of law. PayPal further requests that the subject materials not be released prior to or during the pendency of any such appeal.

If you have any questions, or require further clarification of our position as expressed herein, please do not hesitate to contact me at [jglenn@paypal.com](mailto:jglenn@paypal.com) or (801) 890-9560.

Very truly yours,

**(b) (6), (b) (7)(C)**

Jason Glenn  
Director, Legal - Employment  
PayPal Holdings, Inc.

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<sup>1</sup> Disclosure of PayPal's EEO-1 Reports would also violate the OFCCP's regulations applicable to the examination and copying of its documents. 41 C.F.R. Part 60-40. These regulations expressly implement FOIA. 41 C.F.R. § 60-40.1. Thus, the OFCCP's regulations prohibit disclosure for the same bases set forth here under FOIA.