

**CONCILIATION AGREEMENT  
BETWEEN  
U.S. DEPARTMENT OF LABOR  
OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS  
AND  
BEARINGPOINT, INC, as Debtor-in-Possession.  
100 Crescent Court, Suite 700  
Dallas, Texas 75201**

**PREFATORY STATEMENT**

On February 18, 2009, BearingPoint, Inc. and certain of its affiliates, filed for bankruptcy relief under chapter 11 of title 11 of the United States Code. *In re BearingPoint, Inc. et al., Case No. 09-10691 (REG)*. Subsequently, BearingPoint entered in to various agreements wherein the vast majority of its assets were sold to third parties. On October 5, 2009, BearingPoint filed the Debtors' Second Amended Joint Plan Under Chapter 11 of the Bankruptcy Code (the "Plan"), wherein it proffered a plan pursuant to which BearingPoint will liquidate and thus will not continue as an ongoing enterprise. It is with that background that the parties enter into this Conciliation Agreement. It is expressly understood by the parties that: (1) this Conciliation Agreement is subject to approval by the United States Bankruptcy Court for the Southern District of New York, (2) the make whole amounts specified in Part II below, and on Attachment A hereto, will be the face value of a general pre-petition unsecured claim to be treated as all other general pre-petition claims under the Plan, (3) the timing of any payment of the unsecured claim will be subject to the terms of the Plan and will be conducted under the supervision of the Bankruptcy Court, (4) any provision of this Conciliation Agreement that suggests in any way that BearingPoint will be a continuing enterprise and thus has obligations to do something prospectively are moot and of no force or effect, and (5) more generally, all aspects of compliance with this Conciliation Agreement will be subject to administration of the Plan, with the proviso that the OFCCP and the impacted individuals identified in Attachment A hereto will be treated in accordance with the Plan and the Bankruptcy Code.

**PART I: GENERAL PROVISIONS**

1. This Conciliation Agreement (hereinafter "Agreement") is between the United States Department of Labor / Office of Federal Contract Compliance Programs (hereinafter "OFCCP") and BearingPoint, Debtor-in-Possession., (hereinafter "BearingPoint"), 100 Crescent Court, Suite 700, Dallas, Texas, 75201.
2. The violations identified in this Agreement were found during the compliance review of BearingPoint which commenced on July 6, 2007 and they were specified in a Notice of Violations issued on September 29, 2009. OFCCP alleges that BearingPoint has violated Executive Order 11246, as amended, and implementing regulations at 41 CFR Chapter 60, due to the specific violations cited in Part II below.

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3. This Agreement does not constitute an admission by BearingPoint of any violation of Executive Order 11246, as amended and implementing regulations, or any other laws or regulations.
4. The provisions of this Agreement will become part of BearingPoint's Affirmative Action Program. Subject to the performance by BearingPoint of all promises and representations contained herein, all violations identified in this Agreement shall be deemed resolved. However, BearingPoint is advised that the commitments contained in this Agreement do not preclude future determinations of noncompliance based on a finding that the commitments are not sufficient to achieve compliance.
5. BearingPoint agrees that OFCCP may review compliance with this Agreement. As part of such review, OFCCP may require written reports, inspect the premises, interview witnesses, and examine and copy documents, as may be relevant to the matter under investigation and pertinent to BearingPoint's compliance. BearingPoint shall permit OFCCP access to its premises during normal business hours for these purposes.
6. Nothing herein is intended to relieve BearingPoint from the obligation to comply with the requirements of Executive Order 11246, as amended, and/or Section 503 of the Rehabilitation Act of 1973, as amended, and/or the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, (38USC 4212) and implementing regulations, or any other equal employment statute or executive order or its implementing regulations.
7. BearingPoint agrees that there will be no retaliation of any kind against any beneficiary of this Agreement or against any person who has provided information or assistance, or who files a complaint, or who participates in any manner in any proceedings under Executive Order 11246, as amended, and/or Section 503 of the Rehabilitation Act of 1973, as amended and/or the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, (38 USC 4212).
8. This Agreement will be deemed to have been accepted by the Department of Labor on the date of signature by the Regional Director, OFCCP, Mid-Atlantic Region, unless the Deputy Assistant Secretary for OFCCP indicates otherwise within 45 days of the Regional Director's signature of this Agreement.
9. If, at anytime in the future, OFCCP believes that BearingPoint has violated any portion of this Agreement during the term of this Agreement, BearingPoint will be promptly notified of that fact in writing. This notification will include a statement of the facts and circumstances relied upon in forming of that belief. In addition, the notification will provide BearingPoint with 15 days from receipt to respond in writing, except where OFCCP alleges that such a delay would result in irreparable injury.

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Enforcement proceedings for violation of this Agreement may be initiated at any time after the 15 day period has elapsed (or sooner, if irreparable injury is alleged) without issuing a Show Cause Notice.

Where OFCCP believes that BearingPoint has violated this Conciliation Agreement, OFCCP may seek enforcement of this Agreement itself and shall not be required to present proof of the underlying violation resolved by this Agreement. Liability for violation of this Agreement may subject BearingPoint to sanctions set forth in Section 209 of the Executive Order and 41 CFR 60-1.4 and/or appropriate relief.

## **PART II: SPECIFIC PROVISIONS**

**VIOLATION:** BearingPoint discriminated against females in compensation in the (b) (7)(C) position covered in its Corporate Services Functional Affirmative Action Plan, beginning on January 1, 2007. BearingPoint did not apply its compensation criteria uniformly for all employees, resulting in disparities in annual wages for females in the (b) (7)(C) position. Specifically, the results of multiple regression analyses of salaries in (b) (7)(C) of BearingPoint's non-exempt workforce as of January 1, 2007, demonstrate that fourteen (14) females in the (b) (7)(C) position earned an average of \$14,050 less annually than similarly-situated male (b) (7)(E) standard deviations. This statistically significant deviation from projected salaries of females in this job title could not be accounted for by pay factors included in the analysis. The pay factors controlled for were years in current position, years of experience at time of hire, salary grade, performance evaluation, and department. The statistically significant differences in salaries demonstrate discrimination in compensation against females in the above-referenced job title, in violation of Section 202 of Executive Order 11246 and 41 CFR 60-1.4(a).

**REMEDY:** BearingPoint will implement the following remedial "make whole actions" for the female class members identified by their employee identification numbers in Attachment A to this Agreement (hereinafter "Class Members"):

- A. BearingPoint agrees to an unsecured, pre-petition bankruptcy claim for back wages and interest (less deductions required by law), in a total amount of \$394,985.00 to the Class Members. Subject to the Plan, each Class Member will receive the amount indicated on Attachment A next to her employee identification number, less deductions required by law.
- B. On the effective date of this Agreement, BearingPoint will provide OFCCP's Richmond, Virginia, District Office with the names and last known addresses of each of the Class Members. BearingPoint will take all reasonable steps to verify the current addresses of each Class Member and, within twenty (20) days of the effective date of this Agreement, will provide OFCCP with a final list such verified addresses. If OFCCP believes that any Class Member's verified address

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is incorrect, it will notify BearingPoint immediately and work with BearingPoint to verify a current address for that Class Member.

- C. Within thirty (30) days of providing the final list of verified addresses to OFCCP, BearingPoint will send to each Class Member the letter referred to in Attachment B entitled "Notice to Class Members," along with the two forms enclosed therewith, "Address and Social Security Verification Form" and "Release of Claims Under Executive Order 11246" ("Forms"). To be eligible for a distribution of back pay, subject to the Plan, a Class Member must complete and return the Forms to BearingPoint within thirty (30) days of the postmark date of the "Notice to Class Members" sent to the Class Member.
- D. Class Members who return the completed Forms within the thirty (30) day time period will be identified to the Bankruptcy Court within thirty (30) days of BearingPoint's receipt of the last timely returned Form. BearingPoint will ensure that the Class Members who timely return the Form shall be identified, along with the amount of their individual agreed claim, to the appropriate parties in order to effectuate a payment to them pursuant to the Plan. Subject to the terms of the Plan and the Bankruptcy Code, BearingPoint will ensure that each such Class Member receives such payment.

**PART III: REPORTING**

Within one hundred (100) days of the first distribution of funds under the Plan, BearingPoint will forward to William Thorpe, District Director, Office of Federal Contract Compliance Programs, Richmond Federal Building, 400 North 8<sup>th</sup> Street, Room 552, Richmond, VA 23240, written verification demonstrating payment (in whole or in part) of the agreed to claims to Class Members pursuant to Part II of this Agreement. BearingPoint will further provide the following:

- 1. A list of all Class Members who responded to the "Notice to Class Members" within the thirty (30) day period described in Part II. The list will include each such Class Member's name, address, and date of BearingPoint's receipt of the Forms from the Class Member. The list shall reflect the order in which BearingPoint received the Class Members' Forms.
- 2. Copies of all returned Forms.

This Conciliation Agreement shall remain in full force and effect until sixty (60) days after OFCCP has received the information listed immediately above, or until OFCCP has determined that BearingPoint has achieved compliance with the terms of this Agreement, whichever is earlier. The effective date of this Agreement shall be when the Order Approving this Conciliation Agreement by the Bankruptcy Court has become final and no longer subject to further appeal.

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**PART IV: SIGNATURES**

This Conciliation Agreement is hereby executed by and between the United States Department of Labor / Office of Federal Contract Compliance Programs and BearingPoint, 100 Crescent Court, Suite 700, Dallas, TX. The parties to this Agreement hereby acknowledge that the persons signing below have the authority to bind each of their respective parties to the terms of this Agreement.

12/10/2009  
Date

(b) (7) (c)

Mr. Sean Hurrman  
Managing Director  
BearingPoint, Inc. (Debtor in Possession),  
McLean, Virginia

12/14/2009  
Date

(b) (7) (c)

George Rouse, III  
Assistant District Director  
U.S. Department of Labor/OFCCP  
Richmond District Office

12/10/09  
Date

(b) (7) (c)

Jon A. Geier  
Paul, Hastings, Janofsky & Walker LLP  
Attorneys for BearingPoint, Inc.  
(Debtor-in-Possession)

Dec. 14, 2009

(b) (7) (e)

U.S. Department of Labor / OFCCP  
Richmond District Office

12/14/09

(b) (7) (c)

William Gerald Whorpe  
District Director  
U.S. Department of Labor/OFCCP  
Richmond District Office

12/18/2009

(b) (7) (c)

Michele Hodge  
Acting Regional Director  
U.S. Department of Labor/OFCCP  
Mid-Atlantic Region

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**ATTACHMENT A**

- ID# (b) (7) Female – \$35,803
- ID# (b) (7) Female – \$35,803
- ID# (b) (7) Female – \$35,801
- ID# (b) (7) Female – \$35,801
- ID# (b) (7) Female – \$31,135
- ID# (b) (7) Female – \$29,754
- ID# (b) (7) Female – \$28,352
- ID# (b) (7) Female – \$25,967
- ID# (b) (7) Female – \$25,967
- ID# (b) (7) Female – \$22,933
- ID# (b) (7) Female – \$22,117
- ID# (b) (7) Female – \$22,117
- ID# (b) (7) Female – \$22,117
- ID# (b) (7) Female – \$21,322

**ATTACHMENT B**

**NOTICE TO CLASS MEMBERS**

**BearingPoint, Debtor-in Possession (hereinafter "BearingPoint ") and the Department of Labor's Office of Federal Contract Compliance Programs have entered into a Conciliation Agreement (CA) to resolve alleged disparities in compensation based on gender for the (b) (7)(C) position at BearingPoint beginning on January 1, 2007. BearingPoint has denied any wrongdoing. You have been identified as one of the individuals who worked in such a position during that time period who was impacted.**

**As part of this CA, you are eligible to an agreed upon pre-petition claim in the BearingPoint bankruptcy proceeding in the amount of \$ Amount listed in Attachment A, subject to lawful deductions. Under the terms of this CA, liquidation and payment of the agreed claim will be made pursuant to the Plan of Liquidation approved in the BearingPoint bankruptcy proceeding. That bankruptcy proceeding is pending in United States Bankruptcy Court for the Southern District of New York and is captioned In re BearingPoint, Inc. et al., Case No. 09-10691 (REG). In order to be eligible for this distribution, you must be eligible to work in the United States. You must also execute the enclosed Address and Social Security Verification Form as well as the Release of Claims and return them within 30 days of the post mark date of this Notice to:**

**Mr. Jon Geier, Counselor  
Paul, Hastings, Janofsky & Walker LLP  
191 North Wacker Drive, Thirtieth Floor  
Chicago, IL 60606**

**By entering into this CA, BearingPoint has not admitted, nor has there been any adjudicated finding, that BearingPoint violated any laws when it did not pay you equally for the position for which you worked. BearingPoint has entered into this CA for its convenience and to resolve the matter without further legal proceeding.**

**If you have any questions, you may call me at (312) 499-6054. Your call will be returned as soon as possible.**

**Sincerely,**

**Sean Hurman  
Managing Director  
BearingPoint, Debtor-in-Possession**

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**Address and Social Security Verification Form**

You must complete this form in order to receive the monetary distribution under the terms of the Conciliation Agreement (CA) between BearingPoint and the U.S. Department of Labor's Office of Federal Contract Compliance Programs dated \_\_\_\_\_. Please print legibly, except for the signature.

Name: \_\_\_\_\_

I confirm that the address on the cover letter is correct.

The address on the cover letter is not correct. My correct address is:

Address: \_\_\_\_\_

Phone Number: (\_\_\_\_)\_\_\_\_-\_\_\_\_\_

Notify Paul, Hastings, Janofsky & Walker LLP at the address below if your address changes within the next twelve months.

Your Social Security Number is required for tax purposes:

\_\_\_\_-\_\_\_\_-\_\_\_\_

You must return this form and the executed release of claims under Executive Order 11246 within 30 days of the cover letter's postmark to:

Jon Geier, Counselor  
Paul, Hastings, Janofsky & Walker LLP  
191 North Wacker Drive, 30<sup>th</sup> Floor  
Chicago, IL 60606

I, \_\_\_\_\_, certify that the above statements are true and correct:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

RELEASE OF CLAIMS UNDER EXECUTIVE ORDER 11246

In consideration of the payment of \$ [amount listed in Attachment A] (less deductions required by law) by BearingPoint, Debtor-in-Possession, (hereinafter "BearingPoint") to me, and also in consideration of the Conciliation Agreement between BearingPoint and the U.S. Department of Labor/Office of Federal Contract Compliance Programs (hereinafter "OFCCP"), I \_\_\_\_\_ agree to the following:

I.

I hereby waive, release and forever discharge BearingPoint, its predecessors, successors, related entities, parents, subsidiaries, affiliates and organizations, and its and their current and former shareholders, directors, officers, employees, agents, successors, and assigns, of and from any and all actions, causes of action, damages, liabilities, and claims arising out of or actionable under Executive Order 11246, as amended, which I or my representatives (heirs, executors, administrators, or assigns) have or may have that relate to my compensation at BearingPoint from January 1, 2007 through the date of this Release.

II.

I understand that if I am concerned about how the process described in this Release applies to me, I may contact OFCCP for assistance.

III.

I understand that BearingPoint denies that it treated me unlawfully or unfairly in any way and that BearingPoint entered into a Conciliation Agreement with OFCCP and agreed to make the payment described above in the spirit of conciliation and to bring closure to the Compliance Review initiated by OFCCP on [AGREEMENT DATE]. I further agree that the payment of the aforesaid sum by BearingPoint to me is not to be construed as an admission of any liability by BearingPoint.

IV.

I understand that this Release is a legal document, and I declare that I have read this Release and that I have had a full opportunity to consider and understand its terms and to consult with my advisors. I further declare that I have decided of my own free will to sign this Release.

V.

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I understand that if I do not sign this Release and return it to BearingPoint within thirty (30) days from the post marked date of this Release, I will not be entitled to receive the payment (less deductions required by law) from BearingPoint.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

PLAIN LANGUAGE RELEASE

The Release that you are being asked to sign is a legal document. Essentially the document states that in return for the company paying you money, you agree that you will not file any lawsuit against it for violating Executive Order 11246. It also says that the company denies it did anything illegal or unfair. It says you had sufficient time to look at the document, to talk with others about the document, including an attorney, if you choose, and that no one pressured you into signing the document. Finally, it says that if you do not sign and return the document by a certain date, you will not receive any money.