

Early Resolution Conciliation Agreement  
Between the  
U.S. Department of Labor Office of Federal Contract Compliance Programs  
and  
Florida International University Board of Trustees

**I. Preliminary Statement**

The Office of Federal Contract Compliance Programs (OFCCP) evaluated the Florida International University Board of Trustees (FIU) establishment located at 1200 S.W. 8th Street, PC 224, Miami, Florida, beginning on August 10, 2018. OFCCP found that FIU failed to comply with Executive Order 11246, as amended (E.O. 11246 or the Executive Order) and its implementing regulations at 41 CFR Chapter 60.

In the interest of resolving the violations without engaging in further legal proceedings and in exchange for sufficient and valuable consideration described in this document, OFCCP and FIU enter into this Conciliation Agreement (Agreement) and its attachments, and the parties agree to all the terms therein.

The attachments to this Agreement are deemed incorporated into this Agreement.

**II. General Terms and Conditions**

1. In exchange for FIU's fulfillment of all its obligations in this Agreement, OFCCP will not institute administrative or judicial enforcement proceedings under E.O. 11246 based on the alleged violations described in more detail in Part III. However, OFCCP retains the right to initiate legal proceedings to enforce this Agreement if FIU violates any provision of this Agreement, as set forth in Paragraph 11, below. Nothing in this Agreement precludes OFCCP from initiating enforcement proceedings based on future compliance evaluations or complaint investigations.
2. OFCCP may review FIU's compliance with this Agreement. As part of this review, OFCCP may require written reports, inspect the premises, interview witnesses, and examine and copy documents. FIU will permit access to its premises during normal business hours for these purposes and will provide OFCCP with all hard copy or electronic reports and documents it requests, including those specified in this Agreement.
3. Nothing in this Agreement relieves FIU of its obligation to fully comply with the requirements of E.O. 11246, Section 503 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 793 (Section 503), the Vietnam Era Veterans Readjustment Assistance Act of 1974, as amended, 38 U.S.C. § 4212 (VEVRAA) and their implementing regulations, or other applicable laws requiring nondiscrimination or equal employment opportunity through affirmative action.
4. FIU and OFCCP agree that any release of claims required by this Agreement will only pertain to claims under E.O. 11246.

5. FIU agrees that it will not retaliate against any potential or actual beneficiary of this Agreement or against any person who files a complaint, who has provided information or assistance, or who participates in any manner in any proceeding in this matter.
6. The parties understand the terms of this Agreement and enter into it voluntarily.
7. This Agreement, including its attachments, constitutes the entire Agreement and represents the complete and final understanding of the parties. This Agreement contains all of the terms binding the parties and it supersedes all prior written and oral negotiations and agreements. Any modifications or amendments to this Agreement must be agreed upon in writing and signed by all parties. If an administrative error is found, OFCCP will work in good faith with all parties to make the corrections.
8. This Agreement becomes effective on the day it is signed by the Regional Director (Effective Date).
9. If one or more provisions of this Agreement is deemed unlawful or unenforceable, the remaining provisions will remain in full force and effect.
10. This Agreement will expire sixty (60) days after FIU submits its final progress report required in Section VIII, below, unless OFCCP notifies FIU in writing before the expiration date that FIU has failed to fulfill all of its obligations under the Agreement. In this instance, the Agreement is automatically extended until the date that OFCCP determines that FIU has met all of its obligations under the Agreement.
11. If FIU violates this Agreement:
  - a. The procedures at 41 CFR 60-1.34 will govern:
    - i. OFCCP will send FIU a written notice stating the alleged violations and summarizing any supporting evidence.
    - ii. FIU shall have fifteen (15) days from receipt of the notice to respond, except in those cases in which such a delay would result in irreparable injury to the employment rights of affected employees or applicants.
    - iii. If FIU is unable to demonstrate that it has not violated the Agreement, or if OFCCP's alleges irreparable injury, enforcement proceedings may be initiated immediately without issuing a show cause notice or proceeding through any other requirement.
    - iv. In the event of a breach of this Agreement by FIU, OFCCP may elect to proceed to a hearing on the entire case and seek full make-whole relief, and not be limited to the terms agreed to in the Agreement.
  - b. FIU may be subject to the sanctions set forth in Section 209 of the Executive Order, 41 CFR 60-1.27, and/or other appropriate relief for violating this Agreement.

12. This Agreement does not constitute an admission by FIU of any violation of E.O. 11246 or other laws, nor has there been an adjudication on the merits regarding any such violation.
13. OFCCP may seek enforcement of this Agreement itself and is not required to present proof of any underlying violations resolved by this Agreement.
14. The parties understand and agree that nothing in this Agreement is binding on other governmental departments or agencies other than OFCCP.
15. Each party shall bear its own fees and expenses with respect to this matter.
16. This Agreement is limited to the facts of this case. Neither this Agreement, nor any part of the negotiations that occurred in connection with this Agreement, shall constitute admissible evidence with respect to any OFCCP policy, practice or position in any lawsuit, legal proceeding, administrative proceeding, compliance evaluation or audit, except for legal or administrative proceedings concerning the enforcement or interpretation of this specific Agreement.
17. All references to “days” in this Agreement, and in the Timeline included as Attachment B, are calendar days. If any deadline for an obligation scheduled to be performed under this Agreement falls on a weekend or a Federal holiday, that deadline will be extended to the next business day.

### **III. Discrimination Violation**

1. **Alleged Violation.** OFCCP reviewed FIU's compensation practices for its workforce on the snapshot dates of August 1, 2017 and August 1, 2018 and alleges that FIU did not afford equal employment opportunity to females in Job Group 120 Mid-Level Executive by compensating them less than similarly situated males in violation of 41 CFR 60-1.4(a)(1).

### **IV. Financial Remedy**

#### **1. Settlement Fund**

- a. **Settlement Fund Account.** Within forty-five (45) days after the Effective Date, FIU will deposit a total of \$575,000.00 in an FDIC-insured interest-bearing account maintained by FIU or a third-party administrator at the prevailing interest rate. By the deadline set forth in the Timeline at Attachment B, FIU will notify OFCCP when this action is complete and provide appropriate documentation, including the name and address of the FDIC-insured banking institution, the date of deposit and the deposit amount. Upon request, FIU will provide OFCCP with copies of bank records showing the current balance of the account, list of transactions and the amount of accrued interest on the account. The settlement fund is a negotiated amount that represents estimated back pay and accrued interest. FIU's share of taxes on the portion representing back pay, such as Federal Income Contributions Act (FICA) or other

federal, state and/or local taxes, is not part of the Settlement Fund. FIU will be responsible for any banking account fees related to the Settlement Fund.

- b. **Specific Settlement Fund Amounts.** The total Settlement Fund amount of \$575,000.00 is a negotiated figure that represents back pay in the amount of \$485,077.00 and interest in the amount of \$89,923.00, to be paid to the Eligible Class Members, to resolve the specific alleged violation set forth above.

## 2. Allocation

- a. **Total Amount to be Allocated.** The back pay and interest amounts of the Settlement Fund, plus any additional interest that accrues on these interest-bearing accounts, will be distributed among the eligible class members as explained in this Section. Individual shares will include appropriate deductions for each individual's share of payroll deductions required by law on the portion representing back pay only, such as federal (FICA), state or local insurance premiums or taxes.
- b. **Affected Employees Eligible to Receive Payments.** The Settlement Fund will be distributed to all affected employees (identified in Attachment A) ("Eligible Class Members") who timely respond to the Notice Process as explained below, and whose eligibility is verified (hereinafter, "Class Members"). These individuals will be listed on the Final List of Class Members ("Final List"). The process of determining the Final List is explained below under Notice Process. OFCCP will determine the final amount for each Class Member based on the terms provided in this Agreement.
- c. **Payments to Class Members.** OFCCP will provide FIU a list of the payment amount for each Class Member on the Final List by the date set forth on the Timeline. FIU will issue checks or make electronic payments to each Class Member in the stated amount, along with appropriate tax reporting forms (such as W-2 and Internal Revenue Service (IRS) Form 1099) by the date set forth on the Timeline. OFCCP will receive timely documentation of all payments made and any payments returned undelivered, or any checks not cashed, as set forth on the Timeline. Reasonable efforts will be made to ensure that all Class Members listed on the Final List have an opportunity to claim their portion of the settlement. Where it is determined that a Class Member did not receive a check or that a check was lost, OFCCP and FIU will work together to provide a replacement check before any funds are redistributed to other class members. Any check that remains uncashed 120 days after the initial date the check was mailed to the Class Member will be void. With respect to any uncashed funds, if after 120 days from the initial date the checks were mailed the amount of the uncashed and undistributed funds would result in a payment of \$50.00 or more to each of the Class Members, FIU will make a second and equal distribution to all Class Members who cashed their first check. If the second distribution would involve a payment to each Class Member of less than \$50.00, the residual amount will revert to FIU to provide training in equal employment opportunity to its personnel.

- d. **Tax Payments, Forms and Reporting.** FIU will pay FIU's share of social security withholdings, and any other tax payments required by law from additional funds separate from the Settlement Fund. FIU shall mail to each Class Member an IRS Form W-2 for that portion of the payment representing back pay and an IRS Form 1099 for that portion of the payment representing interest. These IRS forms will be provided to the Class Member either at the time of payment, or at the end of the year. No Class Member will be required to complete a W-4 or W-9 in order to receive payments under this settlement.<sup>1</sup> In addition, OFCCP will report the terms of this settlement to the IRS via a form 1098-F.

### 3. Notice Process

- a. **OFCCP and FIU Obligations under the Notice Process.** The Notice Process set forth in this agreement is intended to provide Eligible Class Members a meaningful opportunity to understand their rights and obligations and act on them in a timely manner. As specified in the Timeline and as otherwise necessary to fulfill this Agreement, FIU and OFCCP will regularly meet and confer by phone and/or by email on the notice process to determine how best to carry out the Notice provisions of this Agreement, and to decide whether any activity, deadline or document should be modified. OFCCP and FIU agree not to unreasonably withhold consent to reasonable modifications proposed by either party, including modifications to deadlines. FIU will use a third-party to administer the notice process and distribution of funds described in this Agreement.
- b. **Notice Documents.** FIU will distribute Notice Documents to Eligible Class Members identified in Attachment A consistent with the sample Notice Documents contained in Attachment D, E, and F. The Notice Documents will include a Notice, Release of Claims, and Information Verification Forms. The Notice Documents will make clear the information about the settlement is being provided by or on behalf of the U.S. Department of Labor. As specified in the Timeline and as otherwise necessary to fulfill this Agreement, the parties will meet and confer on any reasonable modifications of the sample Notice Documents or additions to the materials distributed by FIU, if proposed by either party.
- c. **Timeline.** Attachment B sets forth the agreed Timeline for Notice and for the parties' other obligations under this Agreement. The parties will meet and confer on any reasonable modifications to the Timeline proposed by either party.
- d. **Search for Eligible Class Members.** OFCCP shall provide FIU with complete contact information in its possession or its authority to obtain on the Eligible Class Members by the date set forth in the Timeline.

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<sup>1</sup> IRS guidance states that an employer can assume a single deduction in the absence of a W-4 form. *See* 26 CFR 31.3402(f)(2)-1(a).

- e. **Distribution of Mail Notice to Eligible Class Members.** FIU will provide initial notice by regular first-class mail and by email. FIU will send copies of all the Notice Documents as defined above, including a postage-paid return envelope, by email and by first class mail to the best available mailing address for each Eligible Class Member, by the date set forth in the Timeline. If envelopes from the initial mail notice are returned with forwarding addresses, FIU will re-mail the Notice Documents within seven (7) days of receipt of the forwarding address.

Based on the response to the initial mail notice, the parties will confer by the date set forth in the Timeline to assess the results of the initial mail notice and to ensure that the second round of mail notice maximizes the potential response rate. In accordance with the Timeline, FIU will send a second email and mail notice to Eligible Class Members with valid addresses who fail to respond to the first mail notice unless the parties agree otherwise.

- f. **Distribution of Notice by Other Means.** OFCCP may also conduct independent efforts to communicate with Eligible Class Members about this Agreement through official U.S. Department of Labor channels and in partnership with community-based organizations.
- g. **Notice Deadline.** The final deadline for any Eligible Class Members to respond to the notice is set forth in the Timeline. The parties will prominently display this deadline on all materials they distribute in paper or online form regarding this Agreement and explain that failure to respond by this deadline will result in a forfeiture of any relief provided by this Agreement.
- h. **Technical Assistance.** The parties will timely respond to any inquiries from Eligible Class Members using information consistent with this Agreement and the Notice Documents and will document all inquiries and the result. OFCCP will provide contact information for individuals to contact OFCCP regarding this Agreement. The parties will prominently display this contact information on all materials they distribute in paper or online form regarding this Agreement. FIU will provide contact information for an FIU representative to any Eligible Class Member with questions or concerns.
- i. **Exchange of Information Regarding Eligible Class Members.** FIU and OFCCP will timely exchange information regarding Eligible Class Members, including updated contact information and the results of any technical assistance provided.
- j. **Final List of Class Members.** The Final List will include all Eligible Class Members who timely respond to the Notice and submit the Information Verification Form and Release of Claims by the deadline set forth in the Timeline and whose eligibility is verified by OFCCP. The parties will establish the Final List by the date set forth in the Timeline. The parties will meet and confer on any outstanding issues or questions regarding the Final List. Either party may identify potentially eligible Class Members who may have been erroneously included or excluded from the original or any subsequent list. OFCCP shall make the final determinations of eligibility but will make

every effort to negotiate in good faith to resolve any dispute about the Final List. FIU will provide to OFCCP any information necessary to determine the Final List.

- k. **Documentation of Payments.** By the deadline set forth in the Timeline, FIU will provide OFCCP with electronic documentation of all payments to Class Members, including the amounts paid, the date payment was sent, the date payment was received or the check cashed, and any uncashed or returned checks. In the event of a second distribution, the FIU will provide a similar documentation on the second distribution.
- l. **FIU's Expenses.** FIU will pay all expenses associated with carrying out its duties pursuant to this Section, from funds separate and apart from the amount designated in this Agreement for the Settlement.

## **V. Pay Equity Analysis and Salary Adjustments**

1. **Salary Adjustments.** To proactively facilitate compliance with Executive Order 11246, FIU will conduct an annual analysis of female employees in Job Group 120 Mid-Level Executive as set forth in Part V(2)(a) below and Attachment C. FIU agrees that it will allocate \$125,000 for pay equity adjustments and other pay-equity related activities as described in Part V(2)(b) and Attachment C.
2. **Annual Analysis**
  - a. FIU will conduct annual pay equity analyses to ensure pay equity for female employees in Job Group 120 Mid-Level Executive using the methodology described in Attachment C. FIU will use snapshots of its workforce on the effective date of its affirmative action program (AAP).
  - b. FIU will make pay equity adjustments using the schedule and process described in Attachment C.
  - c. The methodology set forth in Attachment C is to be used by the parties for these settlement purposes only, and it shall not be precedent in any future OFCCP investigations, proceedings, or other conciliation agreements.

## **VI. Modifications to Employment Practices and Other Non-Monetary Relief**

1. **Self-Analysis of Pay Disparities.** Pursuant to 41 CFR 60-2.17(b), FIU will review annually its compensation policies and practices to ensure they comply with 41 CFR 60-1.4(a)(1).
2. **Revised Policies and Procedures.** FIU will review and, as necessary, revise its written compensation policies and procedures and establish monitoring and oversight mechanisms to ensure that all aspects of its compensation system provide an equal opportunity to all its employees as required by 41 CFR 60-1.4(a)(1). All revised pay practices must ensure nondiscrimination in rates of pay or other forms of compensation.

3. **Training.** FIU will provide training to at least all individuals involved in any way in determining compensation for the positions within Job Group 120 Mid-Level Executives on all new and revised policies, procedures, and programs developed under Part VI(2) of this Agreement. This training will include subjects of OFCCP's recordkeeping requirements and equal employment opportunity rights and responsibilities. FIU will ensure that individuals involved in determining compensation for the positions in job group 120 Mid-Level Executive who have completed the training understand and can implement the requirements to (1) provide equal employment opportunity, (2) consistently and fairly implement FIU's policies and procedures, and (3) comply with recordkeeping obligations pursuant to 41 CFR 60-1.12.
4. **Recordkeeping.** Pursuant to 41 CFR 60-1.12, FIU will ensure its managers and/or HR compensation team document the position- and employee-specific information and criteria used to make compensation decisions. FIU will preserve these and all other personnel and employment records made or kept by FIU for a period of not less than two years from the date of the making of the record or the personnel action involved, whichever occurs later. Where a compliance evaluation has been initiated, all personnel and employment records described above are relevant until OFCCP makes a final disposition of the evaluation.

## **VII. Technical Violations and Remedies**

1. **VIOLATION:** During the period of August 1, 2017 through August 1, 2018, OFCCP alleges that FIU failed to submit an acceptable job group analysis, in violation of 41 CFR 60-2.12. Specifically, FIU's "non-tenured" faculty job groups combined both tenure track and non-tenure track positions that did not have similar content, wage rates, and/or opportunities.

**REMEDY:** FIU will develop and maintain a job group analysis that combines job titles with similar content, wage rates, and opportunities, as required by 41 CFR 60-2.12.

2. **VIOLATION:** During the period of August 1, 2017 through August 1, 2018, OFCCP alleges that FIU failed to perform in-depth analyses of its total employment process to determine whether and where impediments to equal employment opportunity exist, in violation of 41 CFR 60-2.17(b). Specifically, OFCCP alleges that FIU failed to evaluate its compensation system to determine whether there are gender-, race-, or ethnicity-based disparities.

**REMEDY:** FIU will perform in-depth analyses of its total employment process to determine whether and where impediments to equal employment opportunities exist, as required by 41 CFR 60-2.17. Specifically, FIU will evaluate its compensation system to determine whether there are gender-, race-, or ethnicity-based disparities.

## **VIII. OFCCP Monitoring Period**

1. **Recordkeeping.** FIU agrees to retain all records relevant to the violations cited in Sections III and VII above and the reports submitted in compliance with Paragraph 2, below. These



records include underlying data and information such as Human Resources Information System (HRIS) and payroll data, salary surveys, personnel records, and any other records or data used to generate the required reports. FIU will retain the records for two (2) years from the time the record was made or the personnel action was taken or until this Agreement expires, whichever is later.

## 2. Contractor Reports.

- a. **Schedule and Instructions.** FIU agrees to furnish OFCCP with the following reports during the Monitoring Period according to the following schedule:

**Progress Report 1:** Due March 15, 2024 and will cover the period from the Effective Date of this Agreement through January 31, 2024.

**Progress Report 2:** Due March 15, 2025 and will cover the period from February 1, 2024 through December 31, 2024.

FIU will submit reports to District Director E. Michelle Hernandez at (b) (6), (b) (7)(C)@dol.gov and Compliance Officer (b) (6), (b) (7)(C) at (b) (6), (b) (7)(C)@dol.gov. FIU and OFCCP have a common interest in the information being provided in the reports pursuant to this Agreement. To the extent any of the reports FIU provides in accordance with this agreement are customarily kept private or closely held, and the FIU believes should remain confidential under Exemption 4 of the Freedom of Information Act (FOIA) in the event of a FOIA request, FIU will provide such reports to OFCCP marked as “Confidential”. In the event of a FOIA request, OFCCP will treat any such documents received as confidential documents, to the extent possible under the law.

- b. **Affirmative Action Programs.** FIU will submit the job group analysis summary for faculty job groups (including the list of job titles that comprise each job group) and the identification of problem areas component of its current year E.O. 11246 AAP with the first Progress Report pursuant to the technical violations identified in Part VII of this Agreement.
- c. **Report on Salary Adjustments.** In each Progress Report, FIU will report to OFCCP the salary adjustments made for female employees in Job Group 120 Mid-Level Executive in accordance with Part V of this Agreement, if applicable. Specifically, for salary adjustments to employees in Job Group 120 Mid-Level Executive, this report will contain the Employee name, employee ID, and gender of the recipient of the salary adjustment, and the adjustment amount. FIU will certify in the Report that the salary adjustments for females in Job Group 120 Mid-Level Executive, if any, were made in accordance with Attachment C. FIU will provide a summary in the Second Progress Report of any remaining funds from the \$125,000 that were applied to salary adjustments made for employees not in Job Group 120 Mid-Level Executive. This summary will contain the amount of salary adjustments made for employees by race, ethnicity, and/or gender, as applicable.

- d. A statement from FIU confirming that it has reviewed its compensation policies to ensure they comply with 41 CFR 60-1.4(a)(1).
  - e. **Reports on Modifications to Policies and Practices.** In each Progress Report, FIU will report on all modifications of personnel policies and practices made to date pursuant to the Agreement and provide documentation of its compliance with the remedy provisions of this Agreement. If FIU has not modified any of the relevant policies and practices since the prior report, a statement to that effect is sufficient. The reports will include documentation responsive to each of the commitments in items 2-4 in Part VI of this Agreement.
  - f. **Reports on Training:** In the First Progress Report, FIU will provide copies of materials used for training at least individuals involved in any way in determining compensation for the positions within Job Group 120 Mid-Level Executives on any new and revised policies, procedures, and programs developed under Part VI(2) of this Agreement. The training materials will also include information on OFCCP's recordkeeping requirements. In the First Progress Report, FIU will provide the employee IDs, titles, and training dates of all employees who have completed the training to date.
3. **Close of Monitoring Period and Termination of Agreement.** This Agreement shall remain in effect until the monitoring period is completed. The monitoring period will close once OFCCP accepts FIU's final progress report as set forth in Part II, Paragraph 10 above. If OFCCP fails to notify FIU in writing within sixty (60) days of the date of the final progress report that FIU has not fulfilled all of its obligations under the Agreement, OFCCP will be deemed to have accepted the final report and the Monitoring Period and this Agreement will terminate. If OFCCP notifies FIU within the allotted time that it has not fulfilled all of its obligations, this Agreement is automatically extended until the date that OFCCP determines FIU has met all of its obligations under the Agreement.

## X. Signatures

The person signing this Agreement on behalf of FIU personally warrants that he or she is fully authorized to do so, that FIU has entered into this Agreement voluntarily and with full knowledge of its effect, and that execution of this Agreement is fully binding on FIU.

This Agreement is hereby executed by and between the Office of Federal Contract Compliance Programs and Florida International University Board of Trustees, Miami, Florida.

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

Dr. Kenneth A. Jessell  
President  
Florida International University  
Board of Trustees  
Miami, Florida

DATE: 9-27-23

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

Aida Y. Collins  
Regional Director Southeast  
U. S. Department of Labor  
Office of Federal Contract Compliance Programs

DATE: \_\_\_\_\_

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

E. Michelle Hernandez  
District Director Miami  
U. S. Department of Labor  
Office of Federal Contract Compliance Programs

DATE: 09/27/2023

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

Compliance Officer  
U. S. Department of Labor  
Office of Federal Contract Compliance Programs

DATE: 09/27/2023

### Attachments:

- A. List of Eligible Class Members
- B. Timeline
- C. Salary Adjustment Methodology
- D. Notice to Eligible Class Members
- E. Information Verification Form
- F. Release of Claims Under Executive Order 11246

**ATTACHMENT A  
ELIGIBLE CLASS MEMBERS**

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**ATTACHMENT B  
TIMELINE**

<b>Effective Date of CA: 09/28/2023</b>		
<b>Due Date</b>	<b># of Days from Effective Date</b>	<b>Action Required</b>
10/28/2023	30	First Mailing: Contractor will mail and email Notice Documents to Eligible Class Members.
11/12/2023	45	Contractor provides OFCCP with documentation regarding the settlement fund account.
12/12/2023	75	Within 45 days from the first mailing of the Notice Documents, Contractor will provide OFCCP with MS Excel file containing information about undeliverable letters, nonresponsive Eligible Class Members, and names of Eligible Class Members who failed to return both forms or to sign the Information Verification & Employment Interest Form or Release of Claims Form.
12/22/2023	85	FIU will send salary adjustment report for female employees in Job Group 120 to OFCCP, if applicable.
12/22/2023	85	Parties will confer to assess the results of the initial Notice Document mailing and to ensure that the second round of Notice Document mailing maximizes the potential response rate.
12/27/2023	90	OFCCP will provide updated contact information to Contractor within 15 days of OFCCP's receipt of the list of nonresponsive Eligible Class Members.
01/16/2024	110	Second Mailing: Contractor sends second mailing of Notice Documents via both mail and email to nonresponsive Eligible Class Members.
01/21/2024	115	OFCCP will approve FIU's proposed salary adjustments for female employees in Job Group 120.
02/08/2024	133	Contractor provides training on all new and revised policies and procedures, OFCCP's recordkeeping requirements, and equal employment opportunity rights and responsibilities.



02/20/2024	145	Response Deadline: Eligible Class Members must respond within 145 calendar days from the Effective Date to participate in the settlement.
02/20/2024	145	FIU will institute all salary adjustments for female employees in Job Group 120, if applicable.
03/06/2024	160	Contractor will provide OFCCP with the list of Eligible Class Members who timely responded to the Notice Documents in accordance with the Agreement, along with copies of Information Verification and Release of Claims forms.
03/21/2024	175	OFCCP will approve the Final List of Class Members and distribution amounts.
04/10/2024	195	Contractor will disburse the settlement fund.
05/30/2024	245	Contractor will provide OFCCP with documentation of payments made to Class Members, including a list of all Class Members whose checks were returned undeliverable or remain uncashed.
08/08/2024	315	First Check Deadline: Class Members must cash checks within 120 calendar days after the initial date the check was mailed. Any uncashed checks are void, and the funds will go back into the settlement fund.
08/28/2024	335	Contractor will make second distribution of checks 20 days after initial checks are void, if applicable.
12/21/2024	450	FIU will send salary adjustment report for female employees in Job Group 120 to OFCCP, if applicable.
01/25/2025	485	OFCCP will approve FIU's proposed salary adjustments for female employees in Job Group 120.
02/24/2025	515	FIU will institute all salary adjustments for female employees in Job Group 120, if applicable.

## Progress Reports

Due Date	Action Required
3/15/2024	The first Progress Report is due to OFCCP. This report will include FIU's report on salary adjustments.
3/15/2025	The second Progress Report is due to OFCCP. This report will include FIU's report on salary adjustments.

## **ATTACHMENT C**

### **SALARY ADJUSTMENTS METHODOLOGY**

In accordance with Part V of the Agreement, FIU will allocate \$125,000 for annual pay adjustments and other pay-equity related activities. Salary adjustments are calculated and awarded in addition to any increase female employees would be entitled to (i.e., merit increases or bonuses).

The salary adjustment funds will be distributed in this order:

- 1) If applicable, between October 1, 2023 and February 20, 2024, FIU will make salary adjustments to female employees in Job Group 120 Mid-Level Executive as of October 1, 2023.
- 2) If applicable, between October 1, 2024 and February 24, 2025, FIU will use any remaining funds to make salary adjustments to female employees in Job Group 120 Mid-Level Executive as of October 1, 2024.
- 3) If applicable, FIU will apply any remaining funds to equity-related salary adjustments to employees outside of Job Group 120 made between October 1, 2023 and March 15, 2025.
- 4) If applicable, FIU will use any salary adjustment funds remaining after March 15, 2025 toward the annual cost of their pay equity software and/or equal employment opportunity training, or other pay equity related or affirmative action planning purposes.

None of the \$125,000 allocated for salary adjustments or other equal employment opportunity or affirmative action initiatives agreed upon by the parties can revert to FIU.

After FIU has completed its compensation analyses and determined the amount of salary adjustments, if any, for females currently in Job Group 120 Mid-Level Executive, FIU will send a report to OFCCP for review and approval before the salary adjustments are implemented, if applicable. This report will include:

- 1) Recommended salary adjustments, if any, for female employees in Job Group 120 Mid-Level Executive;
- 2) Copy of the pay equity analyses conducted for Job Group 120 Mid-Level Executive pursuant to this Agreement; and
- 3) The underlying compensation data used to conduct the pay equity analyses for Job Group 120 Mid-Level Executive, including an Excel spreadsheet with requisite data for each employee in Job Group 120 Mid-Level Executive.

These reports will be due December 22, 2023 and December 21, 2024, and OFCCP will approve the proposed salary adjustments by January 21, 2024 and January 25, 2025. FIU will institute all pay equity adjustments for female employees in Job Group 120 Mid-Level Executive by February 20, 2024 and February 24, 2025. Once FIU makes the approved salary adjustments, the reports on these

salary adjustments will be part of the respective Progress Report due March 15, 2024 and March 15, 2025 as indicated in the Timeline. FIU will provide a summary in the Second Progress Report of any remaining funds from the \$125,000 that were applied to salary adjustments made for employees not in Job Group 120 Mid-Level Executive. This summary will contain the amount of salary adjustments made for employees by race, ethnicity, and/or gender, as applicable.

**Methodology.** FIU and OFCCP stipulate to use the statistical model below to evaluate whether FIU's compensation practices are neutral with regard to employees' gender for Job Group 120 Mid-Level Executive. This statistical model is to be used by the parties for these settlement purposes only, and it shall not be construed as precedent in any future OFCCP investigations, proceedings, or other conciliation agreements. FIU will analyze the natural log of annualized salary (or hourly wages) of Job Group 120 Mid-Level Executive using standard regression (also known as Ordinary Least Squares – OLS).

**Data.** The data to be assessed should be the most recent annual payroll and Human Resources Information System (HRIS) data available using the snapshot dates October 1, 2023 and October 1, 2024.

**Model specifics:**

1. Pay variable – The logarithm of annualized salary should be analyzed.
2. Pay Analysis Group: Job Group 120 Mid-Level Executive.
3. Control variables – Similarly situated comparisons should be based on FIU's pay structure and the factors relied upon to make pay decisions, such as: time in job, other years at FIU, age at hire (or prior experience), job family, grade, gender, and other relevant factors impacting pay.

**ATTACHMENT D**  
**NOTICE TO ELIGIBLE CLASS MEMBERS**

Dear [name]:

Florida International University Board of Trustees (FIU) and the Department of Labor's Office of Federal Contract Compliance Programs (OFCCP) have entered into a Conciliation Agreement (Agreement) to remedy the violations of Executive Order 11246 (E.O. 11246) that OFCCP found during a compliance review of FIU. OFCCP alleges that analysis of FIU's compensation practices for its workforce on the snapshot dates of August 1, 2017 and August 1, 2018 found unexplained pay disparities adverse to Female employees (and in favor of Male employees) in Job Group 120 Mid-Level Executive. This Agreement does not constitute an admission by FIU of any violation of E.O. 11246 or other laws, and there has not been any adjudicated finding that FIU violated any laws. Ultimately, OFCCP and FIU entered into the Agreement to resolve the matter without resorting to further legal proceedings.

You have been identified as one of the individuals who worked in a position within Job Group 120 Mid-Level Executive as of August 1, 2017 or August 1, 2018.

As part of this Agreement, you are eligible to receive a distribution of at least \$[XXX] less lawful payroll deductions. Under the terms of the Agreement, it may take up to seven months from the date of this letter before you receive your payment. In order to be eligible for a payment, you must complete, sign, and return enclosed Information Verification and Release of Claims Form.

This form should be sent via email or mail as soon as possible and must be sent or postmarked to the address below no later than [DATE] for you to be entitled to participate in this settlement.

[Settlement Administrator Name]  
[Settlement Administrator Address]  
[Settlement Administrator Email Address]

You may use the enclosed postage-paid return envelope to return the completed and signed Information Verification Form and Release of Claims Form. You may also submit these forms via email at the email address listed above. It is acceptable to submit PDF files or pictures of the fully completed and signed forms via email.

If you have any questions, you may contact [Settlement Administrator] at FIU at [phone number], or OFCCP Compliance Officer (b) (6), (b) (7)(C) at (305) 536-5672 or (b) (6), (b) (7)(C) @dol.gov. Your message will be returned as soon as possible.

**IF YOU FAIL TO COMPLETE AND RETURN THE ENCLOSED DOCUMENT(S) TO FIU BY [DATE], YOU WILL NOT BE ELIGIBLE TO RECEIVE A PAYMENT.**

NOTE: This notice is only for the person it was sent to and cannot be transferred or used by

another person who is not part of the settlement.

Sincerely,

***[Name]***

***[Title]***

Enclosures (2):  
Information Verification Form  
Release of Claims Form

**ATTACHMENT E**  
**INFORMATION VERIFICATION FORM**

**You must complete this form in order to be eligible for the monetary payment under the terms of the Conciliation Agreement (Agreement) between Florida International University Board of Trustees (FIU) and the Department of Labor's Office of Federal Contract Compliance Programs (OFCCP). Please print legibly, except for the signature.**

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

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

Telephone Nos.: Home \_\_\_\_\_ Cell \_\_\_\_\_ Work \_\_\_\_\_

Email \_\_\_\_\_

Your Social Security Number (to be used for tax purposes only): \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_

Notify [settlement administrator] at the address below if your address, email address or phone number changes within the next twelve (12) months.

[Settlement Administrator Name]  
[Settlement Administrator Address]  
[Settlement Administrator Email Address]

**IF YOU FAIL TO COMPLETE AND RETURN THE ENCLOSED DOCUMENTS TO THE ADDRESS AND/OR EMAIL ADDRESS ABOVE BY [DATE], YOU WILL NOT BE ELIGIBLE TO RECEIVE A PAYMENT.**

I, (print name) \_\_\_\_\_, certify the above is true and correct.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

## **ATTACHMENT F**

### **RELEASE OF CLAIMS UNDER EXECUTIVE ORDER 11246, AS AMENDED**

*PLEASE CAREFULLY READ THE ENCLOSED NOTICE BEFORE COMPLETING THIS RELEASE. YOU MUST RETURN A SIGNED RELEASE TO RECEIVE MONEY FROM THE SETTLEMENT.*

This Release of Claims (Release) under Executive Order 11246, as amended, is a legal document. The document states that in return for Florida International University Board of Trustees (FIU) paying you money, you agree that you will not file any lawsuit against FIU for allegedly violating Executive Order 11246 as amended, in connection with its compensation on the basis of gender in positions within Job Group 120 Mid-Level Executive. It also says that FIU does not admit it violated any laws. This Release 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.

In consideration of the payment by FIU to me, which I agree is acceptable, I agree to the following:

#### **I.**

I hereby waive, release and forever discharge FIU, its predecessors, successors, related entities, parents, subsidiaries, affiliates and organizations, and its and their 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 which relate to my compensation in positions within Job Group 120 Mid-Level Executive on the basis of my gender at any time prior to the date of my signature on this Release. By signing this agreement, I agree that I have been made whole for any claim that could have been brought under Executive Order 11246, as amended, relating to my compensation with FIU through the Effective Date of this Release.

#### **II.**

I understand that FIU denies that it treated me unlawfully or unfairly in any way and that FIU entered into a Conciliation Agreement with the U.S. Department of Labor, Office of Federal Contract Compliance Programs (OFCCP) and agreed to make the payment described above to resolve alleged disparities in compensation and to resolve the matter without further legal proceedings in the compliance review initiated by OFCCP on August 10, 2018. I further agree that the payment of the aforesaid sum by FIU to me is not to be construed as an admission of any liability by FIU.

#### **III.**

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 and seek legal advice. I further declare that I have decided of my own free will to sign this Release.

**IV.**

I understand that if I do not sign this Release and return it to the contact listed on the enclosed Notice to Eligible Class Members, by the deadline listed on the Notice, I will not be entitled to receive any payment (less deductions required by law) from FIU.

IN WITNESS WHEREOF, I have signed this document of my own free will.

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

Signature: \_\_\_\_\_

Date: \_\_\_\_\_