

# **CONCILIATION AGREEMENT**

Between

THE U. S. DEPARTMENT OF LABOR

OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS

and

CHROMALLOY SAN DIEGO

## **PART I. PRELIMINARY STATEMENT**

The Office of Federal Contract Compliance Programs ("OFCCP") evaluated Chromalloy San Diego's ("CHROMALLOY") establishment located at 7007 Consolidated Way, San Diego, CA, 92121 and found that CHROMALLOY was not in compliance with the Executive Order 11246, as amended ("E.O. 11246"), Section 503 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 793 ("Section 503"), and the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, 38 U.S.C. § 4212 ("VEVRAA"), and their implementing regulations at 41 C.F.R. §§ 60-1, 60-2, 60-3, 60-300, and/or 60-741.

OFCCP notified CHROMALLOY of the specific violations found and the corrective actions required in a Notice of Violation issued on August 15, 2019. In the interest of resolving the violations without engaging in further legal proceedings and in exchange for the good and valuable consideration described in this document, OFCCP and CHROMALLOY enter this contract ("Conciliation Agreement" or "Agreement") and agree to all the terms stated below.

## **PART II. GENERAL TERMS AND CONDITIONS**

1. In exchange for CHROMALLOY's fulfillment of all obligations in Parts III and IV of the Agreement, OFCCP agrees not to institute administrative or judicial enforcement proceedings under E.O. 11246, Section 503, and/or VEVRAA based on the violations described in more detail in Part III below. However, OFCCP has the right to initiate legal proceedings to enforce the Agreement itself or to correct and obtain relief for the violations described in Part III if CHROMALLOY violates this Agreement. Nothing in this Agreement precludes OFCCP from initiating enforcement proceedings based on future compliance evaluations or complaint investigations.
2. CHROMALLOY agrees that OFCCP may review its compliance with this Agreement. As part of such review, OFCCP may require written reports, inspect the premises, interview witnesses, and examine and copy documents. CHROMALLOY will permit access to its

premises during normal business hours for these purposes and will provide OFCCP with all reports and documents requested.

3. CHROMALLOY understands that nothing in this Agreement relieves CHROMALLOY of its obligation to fully comply with the requirements of E.O. 11246, Section 503, VEVRAA, their implementing regulations, and other applicable equal employment laws. CHROMALLOY further acknowledges OFCCP's right to open a new review if it has reason to believe that CHROMALLOY is not in compliance with E.O. 11246, Section 503, or VEVRAA.
4. CHROMALLOY promises not to harass, intimidate, threaten, discriminate, or otherwise retaliate against any individual because the individual: benefits from this Agreement, files a complaint or participates in any investigation or proceeding under E.O. 11246, Section 503, and/or VEVRAA, or engages in any activity listed at 41 C.F.R. § 60-1.32(a).
5. The parties understand the terms of this Agreement and enter into it voluntarily.
6. This document and its attachments contain the complete and final understanding of the parties with respect to the matters referenced herein. This Agreement contains all terms by which the parties are bound and it supersedes all prior written or oral negotiations and agreements. There will be no modifications or amendments to this Agreement unless they are in writing, signed by all parties.
7. If one or more provisions of this Agreement are rendered unlawful or unenforceable, the remaining provisions will remain in full force and effect.
8. This Agreement becomes effective on the day it is signed by the District Director of the San Diego District Office (the "Effective Date").
9. This Agreement will expire ninety (90) days after CHROMALLOY submits the final progress report required in Part IV.I.C. below, unless OFCCP notifies CHROMALLOY in writing prior to the expiration date that CHROMALLOY has not fulfilled all of its obligations under the Agreement, in which case the Agreement is automatically extended until the date that OFCCP determine CHROMALLOY has met all of its obligations under the Agreement.
10. If CHROMALLOY violates this Conciliation Agreement.
  - A. The procedures set forth at 41 C.F.R. § 60-1.34 will govern:
    - 1) If OFCCP believes that CHROMALLOY violated any term of the Agreement while it was in effect, OFCCP will send CHROMALLOY a written notice stating the alleged violations and summarizing any supporting evidence.
    - 2) CHROMALLOY will have 15 days from receipt of such notice to demonstrate in writing that it has not violated the Conciliation Agreement, unless such a delay would result in irreparable injury to the employment rights of affected employees or applicants.

- 3) If CHROMALLOY is unable to demonstrate that it has not violated the Agreement, or if OFCCP alleges irreparable injury, enforcement proceedings may be initiated immediately without issuing a show cause notice or proceeding through any other requirement.
- 4) OFCCP may seek enforcement of this Agreement itself and is not required to present proof of any underlying violations resolved by this Agreement.

B. CHROMALLOY may be subject to the sanctions set forth in Section 209 of the Executive Order, 41 C.F.R. § 60-741.66, 41 C.F.R. § 60-300.66 and/or other appropriate relief for violation of this Agreement.

11. This Agreement does not constitute an admission by CHROMALLOY of any violation of E.O. 11246, Section 503, VEVRAA, or other laws, nor has there been an adjudicated finding that CHROMALLOY violated any laws.

### **PART III. SPECIFIC VIOLATIONS AND REMEDIES**

1. **VIOLATION - FAILURE TO INVITE SELF-IDENTIFICATION:** During the period of January 1, 2018 through at least July 2019, CHROMALLOY failed to invite all applicants, to self-identify as to gender, race, ethnicity, and protected veteran status in violation of 41 C.F.R. §§ 60-1.12(c), 60-3.4, 60-3.15, 60-300.42(a), and 60-741(a).

**OFCCP'S SPECIFIC FINDINGS:** CHROMALLOY did not provide applicants with the opportunity to self-identify unless they had been interviewed.

**REMEDY:** CHROMALLOY will provide all applicants, with an invitation to self-identify gender, race, ethnicity, protected veteran status, and disability. All self-identification forms will be maintained pursuant to record retention obligations under 41 C.F.R. §§ 60-1.12, 60-300.42, 60-300.80, 60-741.42, and 60-741.80. CHROMALLOY will provide OFCCP with records and reports sufficient to assess compliance.

2. **VIOLATION – MISAPPLICATION OF INTERNET APPLICANT:** During the period of January 1, 2018 through at least July 2019, CHROMALLOY misapplied the definition of “Internet Applicant” under 41 C.F.R. § 60-1.3.

**OFCCP'S SPECIFIC FINDINGS:** In its summary data, CHROMALLOY only tracked as “applicants” those persons who were actually interviewed. Otherwise qualified applicants who were not interviewed were not included as “applicants”. As a result, CHROMALLOY’s personnel activity frequently showed a 1:1 applicant-to-hire ratio even though the actual ratio was higher.

**REMEDY:** CHROMALLOY will apply the internet applicant rule according to the specifications under 41 C.F.R. § 60-1.3. It must also keep records of all applicants as well as all expressions of interest. CHROMALLOY will provide OFCCP with records and reports sufficient to assess compliance.

3. **VIOLATION – FAILURE TO CONDUCT ADVERSE IMPACT ANALYSES:**

During the period of January 1, 2018 through at least July 2019, as a result of Violations #1 and 2 above, CHROMALLOY failed to conduct appropriate adverse impact analyses in accordance with the requirements of 41 C.F.R. §§ 60-2.17(b) and (d), 60-3.4 and 60-3.15A.

**OFCCP'S SPECIFIC FINDINGS:** Specifically, CHROMALLOY was unable to conduct appropriate adverse impact hiring analyses based on gender, race, and ethnicity because it lacked this information for the full pool of candidates.

**REMEDY:** CHROMALLOY will conduct adverse impact analyses on at least an annual basis for the purpose of determining whether adverse impact exists against applicants based on sex, race and ethnic group pursuant to 41 C.F.R. §§ 60-2.17(b) and (d), and 41 C.F.R. Part 60-3 (Uniform Guidelines on Employee Selection Procedures, "UGESP"). These analyses will be done by job group for each sex/race/ethnic group constituting more than 2% of the labor force in the relevant labor area or 2% of the applicable workforce. If adverse impact is identified in the total selection process, CHROMALLOY will evaluate each individual component of the selection process for adverse impact. If adverse impact is found to exist in any of the individual components of the selection process, CHROMALLOY will validate each such component in accordance with UGESP or utilize selection procedures which do not result in adverse impact. CHROMALLOY will ensure that its records are collected and maintained in accordance with the record retention requirements of 41 C.F.R. § 60-1.12(a) and 41 C.F.R. Part 60-3. CHROMALLOY will provide OFCCP with records and reports sufficient to assess compliance.

**Part IV. REPORTS REQUIRED**

In order for OFCCP to monitor CHROMALLOY's progress toward fulfilling the provisions of this Agreement CHROMALLOY will submit three (3) reports.

The first report shall be due within **60 calendar days** of the Effective Date of this Agreement. The second report shall be due **January 31, 2020** and will cover the period beginning January 1, 2019 to December 31, 2019. The third and final report shall be due **January 31, 2021** and will cover the period beginning January 1, 2020 to December 31, 2020.

1. CHROMALLOY must submit the documents and reports described below to: Sean Ratliff, District Director of OFCCP, 550 West C Street, Suite 900, San Diego, CA 92101.

A. FIRST REPORT – Within 60 calendar days of the Effective Date of this Agreement:

- 1) Provide evidence of CHROMALLOY's revised procedures for ensuring that all applicants, including those who later may be disqualified from employment, are provided an invitation to self-identify. The evidence will include copies of the procedures themselves, and all protocols, self-identification forms, screening documents, tracking logs, and any other documentation that CHROMALLOY relied upon in its revised procedures.
  - 2) Submit documentation that all managers, supervisors, and other personnel involved in recruiting, selecting, or tracking applicants have been trained on the revised hiring process. The documentation must include the dates of the training, the names and job titles of all attendees, an outline of the topics discussed in the training, and the name and job title of each person who conducted the training.
- B. SECOND REPORT** – Within 30 days after the start of its next AAP cycle (2020), due **January 31, 2020**, CHROMALLOY will submit the following support data and analyses for period January 1, 2019 to December 31, 2019:
- 1) An electronic spreadsheet/log of all applicants, to include all expressions of interest for all positions filled, and hires for each job or job group during the reporting period. For each applicant and hire listed, please include the name, race, gender, date of application, position applied for/hired into, job group, whether applicant was internal or external, date of hire (if applicable), requisition number (if applicable), and disposition of application. Also, include whether the individual is considered an internet applicant for purposes of CHROMALLOY's AAP analyses:
  - 2) For each job or job group, the results of CHROMALLOY's analysis as to whether its total selection process has adverse impact, as defined in 41 C.F.R. §§ 60-3.4 and 60-3.15. In addition, for each case where the total selection process has an adverse impact, as defined in 41 C.F.R. § 60-3.4D, CHROMALLOY will provide:
    - a. The results of CHROMALLOY's evaluation of the individual components of the selection process for adverse impact;
    - b. The actions taken by CHROMALLOY, where action is appropriate, after determining that any component of the selection process has an adverse impact.
- C. THIRD REPORT** – Within 30 days after the start of its 2021 AAP cycle, due **January 31, 2021**, CHROMALLOY will submit the following support data and analyses for period January 1, 2020 to December 31, 2020:

- 1) An electronic spreadsheet/log of all applicants, to include all expressions of interest for all positions filled, and hires for each job or job group during the reporting period. For each applicant and hire listed, please include the name, race, gender, date of application, position applied for/hired into, job group, whether applicant was internal or external, date of hire (if applicable), requisition number (if applicable), and disposition of application. Also, include whether the individual is considered an internet applicant for purposes of CHROMALLOY's AAP analyses;
  - 2) For each job or job group, the results of CHROMALLOY's analysis as to whether its total selection process has adverse impact, as defined in 41 C.F.R. §§ 60-3.4 and 60-3.15. In addition, for each case where the total selection process has an adverse impact, as defined in 41 C.F.R. § 60-3.4D, CHROMALLOY will provide:
    - a. The results of CHROMALLOY's evaluation of the individual components of the selection process for adverse impact;
    - b. The actions taken by CHROMALLOY, where action is appropriate, after determining that any component of the selection process has an adverse impact.
2. CHROMALLOY will retain all records and data pertinent to the violations resolved by this Agreement and/ or used to prepare required reports until this Agreement expires or as long as required by OFCCP's regulations, whichever date occurs later (or "whichever time period is longer").

**Part V. SIGNATURES**

This Conciliation Agreement is hereby executed by and between the OFCCP and Chromalloy San Diego.

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

ANDREW JENKINS Terry Ochs  
Site Leader Regional GM  
Chromalloy San Diego Phoenix, AZ

Date: 8/22/19

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

SEAN RATLIFF  
District Director  
OFCCP San Diego District Office

Date: 08/22/2019