

CONCILIATION AGREEMENT

BETWEEN

U.S. DEPARTMENT OF LABOR
OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS

AND

PALAMA HOLDINGS, LLC

2029 Lauwiliwili Street
Kapolei, Hawaii 96707

PART I: GENERAL PROVISIONS

1. This Agreement is between the Office of Federal Contract Compliance Programs (hereinafter "OFCCP") and Palama Holdings, LLC (hereinafter "Palama Holdings"), located at 2029 Lauwiliwili Street, Kapolei, Hawaii.
2. The violations identified in this Agreement were found during a compliance evaluation of Palama Holdings which began on April 26, 2010, and they were specified in a Notice of Violations issued April 10, 2013. OFCCP alleges that Palama Holdings has violated Executive Order 11246, as amended, and the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended (38 U.S.C. 4212), and implementing regulations at 41 CFR Chapter 60 due to the specific violations cited in Part II below.
3. This Agreement does not constitute an admission by Palama Holdings of any violation of Executive Order 11246, as amended, and the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended (38 U.S.C. 4212), and implementing regulations.
4. The provisions of this Agreement will become part of Palama Holdings' Affirmative Action Program (hereinafter "AAP"). Subject to the performance by Palama Holdings of all promises and representations contained herein and in its AAP, the named violations in regard to the compliance of Palama Holdings at its Lauwiliwili Street facility with all OFCCP programs will be deemed resolved. However, Palama Holdings 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. Palama Holdings 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 Palama Holdings' compliance. Palama Holdings shall permit access to its premises during normal business hours for these purposes.

6. Nothing herein is intended to relieve Palama Holdings 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 (38 U.S.C. 4212), and implementing regulations, or any other equal employment statute or executive order, or its implementing regulations.
7. Palama Holdings 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 U.S.C. 4212).
8. This Agreement will be deemed to have been accepted by the Government on the date of signature by the Acting District Director, unless the Regional Director or the Director of the Office of Federal Contract Compliance Programs indicates otherwise within 45 days of the Acting District Director's signature on this Agreement.
9. If at any time in the future, OFCCP believes that Palama Holdings has violated any portion of this Agreement during the term of this Agreement; Palama Holdings will be promptly notified of that fact in writing. This notification will include a statement of the facts and circumstances relied upon in forming that belief. In addition, the notification will provide Palama Holdings with 15 days from receipt of the notification to respond in writing except where OFCCP alleges that such a delay would result in irreparable injury.

OFCCP may initiate enforcement proceedings for violations of this Agreement 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 Palama Holdings has violated this 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 Palama Holdings to sanctions set forth in Section 209 of Executive Order 11246, 41 CFR 60-300.66, and/or other appropriate relief.

PART II: SPECIFIC PROVISIONS

1. **VIOLATION:** Palama Holdings failed to ensure that its employees were compensated without regard to gender as required by 41 CFR 60-1.4(a) and 41 CFR 60-20.5(a). A review of compensation practices for the (b) (7)(C), (b) (6) positions as of January 2008 revealed (b) (7)(C), (b) (6) employees received a lower wage rate than their similarly situated (b) (7)(C), (b) (6)

Specifically a (b) (7)(C), (b) (6) with longer periods of employment were receiving a lower wage rate than their (b) (7)(C), (b) (6) counterparts. The review of the available records, job descriptions, pay information and the results of interviews with managers and employees obtained and analyzed during the compliance evaluation support the findings.

REMEDY: Palama Holdings agrees to revise its compensation practices and implement measures to ensure that its compensation system provides an equal opportunity to all employees, regardless of gender. This applies to all aspects of compensation, including but not limited to, initial salary at the time of hire and progression into higher paying categories. In order to resolve this violation, Palama Holdings agrees to the following:

- a. Provide back pay (b) (7)(C), (b) (6) in the amount of \$18,256.00 and interest in the amount of \$1,839.32 for a total of \$20,095.32. The payment, less required standard employee tax withholdings on back wages, will be made (b) (7)(C), (b) (6) by certified check within 60 days after the effective date of this agreement and the receipt of the signed Release of Claims¹. Palama will send a one-time full back payment in order to satisfy the financial remedy (b) (7)(C), (b) (6). The payment will be calculated to show and report appropriate withholding deductions. (b) (7)(C), (b) (6) will have 45 days of postmark of the Notification Letter², or within 45 days from receipt of the Notification Letter if received personally, to sign and return the Release of Claims.
- b. Provide back pay (b) (7)(C), (b) (6) in the amount of \$5,488.00 and interest in the amount of \$736.11 for a total of \$6,244.11. The payment, less required standard employee tax withholdings on back wages, will be made (b) (7)(C), (b) (6) by certified check within 60 days after the effective date of this agreement and the receipt of the signed Release of Claims³. Palama will send a one-time full back payment in order to satisfy the financial remedy (b) (7)(C), (b) (6). The payment will be calculated to show and report appropriate withholding deductions. (b) (7)(C), (b) (6) will have 45 days of postmark of the Notification Letter⁴, or within 45 days from receipt of the Notification Letter if received personally, to sign and return the Release of Claims.
- c. Conduct an audit and analysis of its compensation practices to determine its impact on all employees.
- d. Develop and implement policies and procedures for all employees to ensure that Palama Holdings' compensation system will not differentiate on the basis of gender.

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

- e. Provide training to all individuals who participate in the application of any component of the compensation system at Palama Holdings to ensure its consistent uniform application.
 - f. Prevent retaliation, harassment, and any other form of reprisal or adverse action against any beneficiary of this Agreement or against any person who has provided information or assistance.
2. **VIOLATION:** Palama Holdings failed to collect and maintain personnel and employment records in accordance with the requirements of 41 CFR 60-1.12(a) and 41 CFR Part 60-3. Specifically, Palama Holdings failed to maintain documentation of performance evaluations, compensation activities documents, and other personnel activities documents, and was unable to present documents for every employee.

REMEDY: Palama Holdings will collect and maintain all personnel and employment records. Specifically, all performance evaluations and compensation activity records for all employees are collected and maintained in accordance with the requirements of 41 CFR Parts 60-1 and 60-3.

3. **VIOLATION:** Palama Holdings failed to conduct internal auditing and reporting to monitor all personnel activity for its total affirmative action program in accordance with the requirements of 41 CFR 60-2.17(d). Palama Holdings failed to implement any monitoring of its personnel activities to ensure no adverse impact and the consistent implementation and documentation of all their procedures. Specifically, Palama Holdings failed to:
- a. Ensure that performance evaluations were conducted and documented for all employees.
 - b. Ensure that all employees were informed of opportunities for trainings and promotions.
 - c. Ensure that the selection process for trainings and promotions was uniformly applied and aligned with the company's EEO and AA policies.
 - d. Ensure that managers' and supervisors' practices were aligned with company policies and did not create any barriers for employee progression.
 - e. Implement Equal Employment Opportunities and Affirmative Actions to ensure that any concentration or underutilization of any protected group is monitored and addressed.

REMEDY: Palama Holdings will conduct internal auditing and reporting in order to monitor all personnel activities for its affirmative action program. Specifically, Palama Holdings will:

- a. Refine its tracking of all personnel activities to ensure no adverse impact and to ensure that all activities are consistently implemented, documented, and maintained.
 - b. Develop policies and procedures to ensure that all employees are informed of opportunities for trainings and promotions and are encouraged to participate.
 - c. Develop policies and procedures to monitor and evaluate whether managers and supervisors identify and address any impediments for employee progression.
 - d. Evaluate managers' and supervisors' practices to ensure that they are aligned with company policies.
 - e. Develop policy and procedures that monitor and evaluate manager's and supervisor's adherence to company policies.
4. **VIOLATION:** During the period of April 1, 2009 through March 30, 2010, Palama Holdings failed to list all required employment openings with the Hawaii State Employment Service, as required by 41 CFR 60-300.5(a)(2). Specifically, the regulations require all employment openings must be listed with the Employment Development Department except for executive and top management positions, positions that will be filled from within the contractor's organization and positions lasting three days or less, 41 CFR 60-300.5(a)(6).

REMEDY: Palama Holdings shall implement a process to list all employment openings with the Hawaii State Employment Service. Palama Holdings shall maintain documentation of the employment openings listed with the Hawaii State Employment Service, the number of referrals corresponding to each listed vacancy, and the results of any such referrals.

Palama Holdings commits that these findings by OFCCP will not be repeated.

PART III: REPORTING

Palama Holdings agrees to furnish the U.S. Department of Labor, Office of Federal Contract Compliance Programs, Hawaii Area Office, 300 Ala Moana Blvd., Room 7-227, P. O. Box 50149, Honolulu, HI 96850, with the following progress reports:

REPORT DUE DATE

PERIOD COVERED

January 31, 2014

June 1, 2013 through December 31, 2013

July 31, 2014

January 1, 2014 through June 30, 2014

The first progress report shall contain the following:

1. Evidence of the back pay and interest disbursed (b) (7)(C), (b) (6) in the amount of \$20,095.32 and (b) (7)(C), (b) (6) in the amount of \$6,244.11 including copies of cancelled checks.
2. A description of the revised compensation procedures designed to provide equitable compensation practices. These procedures should include the standard wage rates for positions and factors that determine starting wage and wage increases.
3. Evidence of training provided to all individuals who participate in the application of any component of the compensation process to include:
 - a. The date and location of the training.
 - b. The names and job titles of the trainers.
 - c. The names and job titles of the managers who attended the training.
 - d. Copies of the sign in sheet
 - e. Copies of the training material
 - f. Cost of the training
4. Results of a record retention internal audit of all employee records, including but not limited to, applications, performance evaluations and changes in compensation.
5. A report showing (1) that all required employment openings were listed with the Hawaii State Employment Service (including copies of all listings); (2) the number of referrals corresponding to each listed vacancy; and (3) the results of any such referrals including but not limited to: (a) whether referral was interviewed, extended a job offer and/or rejected; and (b) detailed reasons why non-hires were not interviewed and/or were rejected.

The second progress report shall contain the following:

1. Results of an internal audit and analysis of Palama Holdings' compensation practices for all employees during the period specified above.
2. Results of a record retention internal audit of all employee records, including but not limited to, applications, performance evaluations and changes in compensation.
3. A report showing (1) that all required employment openings were listed with the Hawaii State Employment Service; (2) the number of referrals corresponding to each listed vacancy; and (3) the results of any such referrals including but not limited to: (a)

whether referral was interviewed, extended a job offer and/or rejected; and (b) detailed reasons why the non-hires were not interviewed and/or were rejected.

Palama Holdings agrees to retain all personnel records pertinent to the finding by OFCCP resolved by this Agreement as well as the reports submitted pursuant to the Agreement (including the underlying data/information on which the reports are based) until the expiration date of the Agreement and maintained consistent with regulatory requirements.

TERMINATION DATE:

This Conciliation Agreement will remain in full force and effect until August 30, 2014 or until OFCCP's written acceptance of the Progress Report, whichever date is later.

PART IV: SIGNATURES

This Agreement is hereby executed by and between the Office of Federal Contract Compliance Programs and Palama Holdings, LLC, 2029 Lauwiliwili Street, Kapolei, Hawaii 96707

Date: 5/17/13

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

JUDY McDONALD
President
Palama Holdings, LLC
2029 Lauwiliwili Street
Kapolei, Hawaii 96707

Date: Mar 17, 2013

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

Compliance Officer
Office of Federal Contract
Compliance Programs
Hawaii Area Office

Date: 5/17/13

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

BRIAN L. MIKEL
Hawaii Area Director
Office of Federal Contract
Compliance Programs
Hawaii Area Office

Date: 5/30/2013

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

ALICE V. YOUNG
Acting District Director
Office of Federal Contract
Compliance Programs
San Jose District Office