

## CONCILIATION AGREEMENT

Between

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

and

UNIVERSITY OF MARYLAND, COLLEGE PARK  
7901 Regents Drive  
College Park, Maryland 20742

### **PART I. PRELIMINARY STATEMENT**

The Office of Federal Contract Compliance Programs ("OFCCP") evaluated the University of Maryland, College Park's ("UMD") facility located at 7901 Regents Drive, College Park, Maryland and found that UMD was not in compliance with the Executive Order 11246, as amended ("E.O. 11246"), and its implementing regulations at 41 C.F.R. Section 60-1. OFCCP notified UMD of the specific violations found and the corrective actions required in a Notice of Violations issued on August 22, 2017. 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 UMD 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 UMD'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 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 UMD violates this Agreement. Nothing in this Agreement precludes OFCCP from initiating enforcement proceedings based on future compliance evaluations or complaint investigations.
2. UMD 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. UMD will permit access to its premises during normal business hours for these purposes and will provide OFCCP with all reports and documents requested.
3. UMD understands that nothing in this Agreement relieves UMD 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"); their implementing regulations; and other applicable equal employment laws.

4. UMD 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 Regional Director of the Mid-Atlantic Region (the "Effective Date") unless the Director of OFCCP indicates otherwise within 45 calendar days of the date the Regional Director signs the Agreement.
9. This Agreement will expire sixty (60) days after UMD submits the final progress report required in Part IV, below, unless OFCCP notifies UMD in writing prior to the expiration date that UMD has not fulfilled all of its obligations under the Agreement, in which case the Agreement is automatically extended until the date that OFCCP determines UMD has met all of its obligations under the Agreement.
10. If UMD violates this Conciliation Agreement,
  - A. The procedures set forth at 41 C.F.R. § 60-1.34 will govern:
    - 1) If OFCCP believes that UMD violated any term of the Agreement while it was in effect, OFCCP will send UMD a written notice stating the alleged violations and summarizing any supporting evidence.
    - 2) UMD 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 UMD 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. UMD may be subject to the sanctions set forth in Section 209 of the Executive Order and/or other appropriate relief for violation of this Agreement.

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

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

1. **ALLEGED VIOLATION:** OFCCP found that for the period from November 1, 2013 to October 31, 2014, UMD was not in compliance with 41 CFR §60-1.4(a) (1) and that its hiring process and selection procedures for the University Police Officer I (UPO-I) position resulted in a statistically significant disparity of (b) (7)(E) standard deviations and a shortfall in hiring of six (6) Black applicants.

As part of UMD's selection process for the UPO-I position, for the period from November 1, 2013 through October 31, 2014, applicants were required to pass an Oral Board Interview. The administration of the Oral Board Interview resulted in a statistically significant disparity in the rates Black applicants advanced to the next stage of the hiring and selection process for the UPO-I position. The disparity was statistically significant at a level of (b) (7)(E) standard deviations and a shortfall in passing of three (3) Black applicants. UMD could not produce an acceptable validity study for the Oral Board Interview or any other evidence demonstrating its validity in accordance with the Uniform Guidelines on Employee Selection Procedures.

**REMEDY:** UMD agrees to cease and desist use of the Oral Board Interview that resulted in the statistically significant disparity and shortfall in the hiring of three (3) Black applicants for the UPO-I position identified in this violation, as required by 41 C.F.R. § 60-1.4(a). UMD will examine, monitor, and modify its selection procedures as necessary and ensure that selection criteria are applied uniformly and hiring decisions for the UPO-I positions are made in a non-discriminatory manner. In addition, UMD agrees to take the following actions:

- A. **Notice:** Within fifteen (15) calendar days of the Effective Date of this Agreement, UMD must notify the Black applicants listed in Attachment A of the terms of this Agreement by mailing by first class mail, return-receipt requested, to each individual in the protected class the Notice to Affected Applicants (Attachment B, "Notice"), Claim Form (Attachment C), Release of Claims Under Executive Order 11246 (Attachment D, "Release"), and a postage paid return envelope. UMD will notify OFCCP of all letters returned as undeliverable fifteen (15) days after the response deadline. In addition, within fifteen (15) days after expiration of the response deadline set out in the Claim Form, UMD will provide OFCCP with a list of the individuals in the affected class who have not yet responded to the Notice and/or have not returned a signed Claim Form. OFCCP will then attempt to obtain and provide updated addresses to UMD within fifteen (15) days of receiving the list from UMD. UMD agrees to mail by first class mail, return-receipt requested, a second Notice, Claim Form, Release, and postage paid return envelope to all individuals for whom updated addresses were obtained within fifteen (15) days of receiving the updated addresses.
- B. **Eligibility:** All members of the affected class (listed on Attachment A) who sign and return the Interest Form to UMD within thirty (30) calendar days of the postmarked date on the envelope containing the first or second Notice and Claim Form ("Eligible Class

Members") will receive a share of the monetary settlement and, if indicating an interest in employment, will be eligible to be considered for a job pursuant to this Agreement. If an individual receives, but does not return the Claim Form to UMD within thirty (30) calendar days of the postmarked date on the envelope containing the first or second Notice and Claim Form, he/she will no longer be entitled to a payment or consideration for a job under this Agreement.

Within fifteen (15) calendar days after the response deadline set out in the Claim Form, UMD will provide OFCCP with a list of the Eligible Class Members who returned the Claim Form by the deadline. Within fifteen (15) calendar days after receiving the list, OFCCP will approve the final list of Eligible Class Members or discuss with UMD any issues necessary to finalize the list, such as the inclusion or exclusion of certain individuals.

All Eligible Class Members are entitled to their share of the monetary settlement regardless of whether they are interested in employment with UMD.

- C. Monetary Settlement: UMD agrees to distribute \$150,000 (\$139,000 in back pay and \$11,000 in interest), less legal deductions required by law from back pay only (such as federal, state and/or local taxes and the Eligible Class Members' share of FICA taxes), in equal shares among all Eligible Class Members on the final approved list. UMD will pay the Internal Revenue Service ("IRS") the employer's share of social security withholdings and will mail each Eligible Class Member an IRS W-2 Form reporting the portion of the payment representing back pay and an IRS Form 1099 for the portion of the payment representing interest. These IRS forms will be mailed at the end of the year. UMD will disburse the monetary settlement within fifteen (15) calendar days after OFCCP approves the final list of Eligible Class Members.

Within fifteen (15) calendar days of UMD's receipt of a check to an Eligible Class Member returned as undeliverable, UMD will notify OFCCP of this fact via e-mail sent to District Director Tracie Brown at brown.tracie@dol.gov. OFCCP will attempt to locate the Eligible Class Member and if OFCCP obtains an alternate address, UMD will re-mail the check within fifteen (15) calendar days of receiving an alternate or corrected address. Any check that remains uncashed 120 days after the initial date the check was mailed to the Eligible Class Member will be void. With respect to any uncashed funds, UMD will make a second distribution to all Eligible Class Members who cashed their first check by mailing checks in equal amounts within fifteen (15) calendar days.

- D. Employment: Eligible Class Members who express an interest in employment with UMD and complete the prerequisites under state law, including retaking and passing a physical agility test and background investigation (which includes polygraph and drug screen), and will be conditionally hired by UMD and enrolled at an academy training program. Before starting the Academy Training Program, the Eligible Class Members will also have to successfully complete medical and psychological examinations.

The Eligible Class Members hired into UPO-I positions pursuant to this Agreement must be paid a salary of \$44,176.68 or the current wage rate for the UPO-I position, whichever

is higher, and must be provided with the same benefits and opportunity to earn overtime and shift differentials as other UPO-I employees. In addition, all Eligible Class Members hired must receive retroactive seniority as it relates to accrual of leave benefits.

E. Revised Hiring Process:

- 1) Eliminate Discriminatory Selection Procedures: UMD has ceased use of the Oral Board Interview until it is validated in accordance with 41 C.F.R. Part 60-3. UMD agrees to comply with all OFCCP regulations concerning selection procedures, including 41 C.F.R. Part 60-3. UMD will not use any selection procedure that has an adverse impact, as defined in 41 C.F.R. § 60- 3.4D, on applicants of a particular race unless it properly validates the procedure pursuant to these regulations.
- 2) Review and Revisions Required: UMD has revised the practices, policies, and procedures it uses to select applicants for UPO-I positions (hereinafter "Revised Hiring Process").
- 3) Training: Within 120 calendar days of the Effective Date of this Agreement, UMD must train all individuals involved in any way in recruiting, selecting, or tracking applicants for the UPO-I position on the Revised Hiring Process. The training will include instruction in: the proper implementation of the recruitment, tracking and selection procedures; neutral application of the specified qualifications and criteria that will be used at each step in the hiring process; procedures to be used to document the decisions made at each step in the hiring process; and the procedures to be used to ensure that documents are retained in accordance with 41 C.F.R. § 60-1.12(a) and Part 60-3. UMD will meet with management and all individuals responsible for the selection process and review its equal employment obligations and nondiscrimination policies related to hiring. Specific attention will be directed to ensure that Black applicants, who benefit from the provisions of this agreement, are not retaliated against.
- 4) Monitoring: UMD agrees to monitor selection rates at each step of its selection process for UPO-Is. Where it is determined that a selection procedure has an adverse impact, as defined in 41 C.F.R. § 60-3.15A, on the hiring of applicants of a particular race or gender, UMD will eliminate the procedure, choose an alternative procedure, or validate the procedure in accordance with the UGESP codified at 41 C.F.R. Part 60-3. UMD agrees to maintain and make available to OFCCP records concerning the impact of the selection process for UPO-Is. This includes the number of persons hired by race, the number of applicants who applied by race and the selection procedures utilized. This information will be maintained until the expiration of this Agreement or as long as required by the regulations, whichever is later.

#### **PART IV: REPORTS REQUIRED**

1. In order for OFCCP to monitor UMD's progress toward fulfilling the provisions of this Agreement, UMD must submit the specific documents and reports described below to: Tracie Brown, District Director, Federal Building Room 2103, 1000 Liberty Avenue, Pittsburgh, PA 15222.
  - A. Within 135 days of the Effective Date of this Agreement, UMD must submit documentation that all managers, supervisors and other personnel involved in recruiting, selecting, or tracking applicants for the UPO-Is 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. Within the prescribed timeframes, UMD must submit all documents and information referenced in sections III.1.A-E.
  - C. UMD must submit a progress report covering the period April 13, 2018 to December 30, 2018. The progress report will be due January 30, 2019. UMD will submit the following in the progress report:
    - 1) Documentation of monetary payments to all Eligible Class Members as specified in section III.1.C. The documentation must include the names of Eligible Class Members who were paid, and, for each Eligible Class Member, the number and the amount of the check and the date the check cleared the bank. UMD must provide OFCCP with copies of all canceled checks upon request;
    - 2) Documentation of specific hiring activity for Eligible Class Members who were hired as UPO-Is in accordance with this Agreement, including name, date of hire, job title hired into, rate of pay and proof of retroactive leave benefits;
    - 3) For Eligible Class Members who were considered for employment but were not hired, UMD will provide the reason for non-placement along with all relevant documentation (e.g., documentation that the Eligible Class Member declined a job offer);
    - 4) The total number of applicants and hires and the breakdown by race, gender and ethnic group of applicants and hires for the UPO-I position during the reporting period; and
    - 5) Documentation that all managers, supervisors, and other personnel involved in recruiting, selecting, or tracking applicants for the UPO-Is 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

2. UMD 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.

**PART V: SIGNATURES**

This Conciliation Agreement is hereby executed by and between the U.S. Department of Labor, Office of Federal Contract Compliance Programs and University of Maryland, College Park, 7901 Regents Drive, College Park, Maryland 20742.

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

Wallace D. Loh,  
President  
University of Maryland, College Park

DATE: March 16, 2018

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

Michele Hodge  
Regional Director  
OFCCP Mid-Atlantic Region

DATE: MARCH 20, 2018

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

Tracie Brown  
District Director  
OFCCP Pittsburgh District Office

DATE: March 19, 2018

ATTACHMENT A

LIST OF VICTIMS

Applicant ID	First Name	Last Name
<b>(b) (6), (b) (7)(C)</b>		

# *You may be eligible to get money and a job because of a legal settlement between the University of Maryland, College Park and the U.S. Department of Labor*

*We are writing to provide information about a legal settlement between the U.S. Department of Labor and the University of Maryland, College Park that may benefit you. This settlement involves claims of discrimination in hiring, and our records show that you may be one of the applicants covered by the settlement. If you take the steps described in this Notice by the deadline below, you may be eligible for a payment of back wages and/or a job with of University of Maryland.*

## **ARE YOU AFFECTED?**

Blacks who applied and were not hired for the University Police Officer I position at University of Maryland's facility located in College Park, MD between November 01, 2013 and February 17, 2014 are covered by this settlement.

## **WHAT IS THIS SETTLEMENT ABOUT?**

The U.S. Department of Labor's Office of Federal Contract Compliance Programs (OFCCP) conducted a review of University of Maryland's hiring practices during November 1, 2013 to October 31, 2014. OFCCP is the government agency responsible for enforcing the equal employment opportunity and affirmative action requirements that apply to federal contractors. OFCCP issued a Notice of Violations alleging that University of Maryland discriminated against Blacks in hiring for the University Police Officer I during November 1, 2013 and February 17, 2014. The University of Maryland denies those claims. Ultimately, OFCCP and of University of Maryland have agreed to resolve the issue through a Conciliation Agreement. A Conciliation Agreement is a legal document that explains the terms of an agreement to settle a Notice of Violations issued by OFCCP.

## **WHAT DOES THIS MEAN FOR YOU?**

Because you applied for University Police Officer I during the relevant time frame, and were not hired, this settlement may provide you with some specific benefits:

- (1) **You may be eligible to receive a payment of at least \$16,000** (before taxes). This payment represents your share of back wages and other payments the University of Maryland is making to settle the lawsuit. The final amount you will receive will be

reduced by deductions for items such as income tax withholding and Social Security contributions.

- (2) The University of Maryland will be making job offers for University Police Officer I to some of the individuals receiving this notification. It is not guaranteed that you will receive a job offer. If you are interested in a job with the University of Maryland, please express your interest on the enclosed Claim Form.

To get these benefits, you will need to release (give up) certain legal claims, and sign the enclosed Claim and Release forms.

### **WHAT IS YOUR NEXT STEP?**

You should read this Notice, the Claim and Release forms, and any other information you received from the U.S. Department of Labor or the Settlement Administrator [*Administrator Name*].

Please do not ignore these documents or throw them away. Otherwise, you could miss an opportunity to receive money and job with the University of Maryland.

To be eligible for a payment and job, you must complete, sign, and return **both** the following enclosed documents, (1) Claim Form and (2) Release of Claims Form by [date] to:

*[Name and address for return of claim forms or instructions for electronic submission]*

***The documents must be received by[date].***

You may receive some or all of these benefits only if these forms confirm that you are one of the individuals covered by the settlement. After correct completion and submission of these documents, a final decision will be made about your eligibility.

**If you fail to return both of the required documents by the deadline [*or if your documents do not verify your eligibility*] you will not be eligible to receive any money, consideration for job opportunities or any other relief provided to you by the settlement.**

### **HOW CAN YOU GET MORE INFORMATION?**

If you have any questions, you may contact Tracie Brown, Pittsburgh District Director, 412-395-4323 or brown.tracie@dolgov. You can also visit the U.S. Department of Labor website about this case at [www.dol.gov/ofccp/cml](http://www.dol.gov/ofccp/cml).

# Claim Form – Affected Applicants

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PLEASE CAREFULLY READ THE ENCLOSED NOTICE BEFORE COMPLETING THIS CLAIM FORM.

## INSTRUCTIONS FOR FILING A CLAIM TO BE CONSIDERED FOR MONEY (BACK WAGES) AND/OR A JOB OFFER FROM THE SETTLEMENT

### DEADLINE TO RESPOND: 30 CALENDAR DAYS

If you complete this Claim Form, you may be eligible for a money payment from the settlement and you can express interest in a job offer. You can receive a money payment even if you do not express interest in a job.

To receive an award (such as money or a job offer), you must complete and return this Claim Form and Release Form postmarked or hand-delivered within 30 calendar days, to

*[Name and Address]*

If you do not submit a properly completed Claim Form and Release Form within **30 calendar days**, then your claim will not be on time and **you will not receive any money from this settlement and you cannot be considered for a job offer.**

Enclosed is a stamped, pre-addressed envelope you can use.

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This Claim Form will only be used for the following purposes:

- (1) To confirm important information we need in order to make sure you are eligible to receive money under this settlement and process your payment, and
- (2) To allow you to express interest in the jobs being offered as a result of the settlement.

**Step 1: Please provide the following contact information to process your payment (print legibly).**

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

Home Phone: \_\_\_\_\_

Cell Phone: \_\_\_\_\_

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

- 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: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Please provide your social security number \_\_\_\_\_**

*Your Social Security Number is required in order to process your payment for tax purposes. Your Social Security Number will not be used for any other purpose.*

**Notify us at the address below if your address changes within the next three months, or contact us if you have any questions about this claim form, the notice, or the settlement.**

**Name**  
**Address**  
**Phone**  
**Email/website link**

**Step 2: Inform us if you are interested in a position:**

- Yes, I am still interested in the University Police Officer I position with the University of Maryland in College Park, Maryland
- No, I am not currently interested in the University Police Officer I position with the University of Maryland in College Park, Maryland
- I am currently employed by the University of Maryland

**Step 3: Sign and return along with the Release Form**

I certify the above as true and correct.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

## RELEASE OF CLAIMS UNDER EXECUTIVE ORDER 11246

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**PLEASE CAREFULLY READ THE ENCLOSED NOTICE BEFORE COMPLETING THIS RELEASE. YOU MUST RETURN A SIGNED RELEASE TO RECEIVE MONEY AND/OR A POTENTIAL JOB OFFER FROM THE SETTLEMENT**

*This Release of Claims under Executive Order 11246 ("Release") is a legal document. This document states that in return for the University of Maryland, College Park ("Contractor") providing you with money and/or a potential job offer, you agree that you will not file any lawsuit against Contractor for allegedly violating Executive Order 11246 in connection with allegations of discrimination in hiring beginning November 2013. It also says that Contractor 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 and/or a potential job offer.*

In consideration of the payment of at least \$ 16,000 (less deductions required by law) and/or a potential job offer for the University Police Officer I position by Contractor to me, which I agree is acceptable, I agree to the following:

I.

I hereby waive, release and forever discharge Contractor, its predecessors, successors, related entities, parents, subsidiaries, affiliates and organizations, and its and their shareholders, owners, 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 in any way to the allegations of discrimination in hiring beginning November 2013.

II.

I understand that Contractor denies that it treated me unlawfully or unfairly in any way and that Contractor 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 and/or a potential job offer described above to resolve without further legal proceedings all issues related to OFCCP's compliance reviews of Contractor initiated on August 26, 2014. I further agree that the payment of the aforesaid sum and/or a potential job offer by Contractor to me is not to be construed as an admission of any liability by Contractor.

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.

I understand that if I do not sign this Release and return it to [*Settlement Agent contact*] such it is received within 30 calendar days, I will not be entitled to receive any payment (less deductions required by law) and/or a potential job offer for the University Police Officer I position.

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

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

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