

Conciliation Agreement
Between the
U.S. Department of Labor Office of Federal Contract Compliance Programs
And
Tesco Controls, Inc.

I. Preliminary Statement

The Office of Federal Contract Compliance Programs (OFCCP) evaluated the Tesco Controls, Inc (Tesco) establishment located at 8440 Florin Road, Sacramento, CA 95828, beginning on July 15, 2020. OFCCP found that Tesco failed to comply with Executive Order 11246, as amended (E.O. 11246 or the Executive Order), 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 respective implementing regulations at C.F.R., Sections 60-1, 60-2, 60-300 and 60-741.

OFCCP notified Tesco of the specific violation(s) and the corrective action(s) required in a Notice of Violation issued on April 1, 2021.

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 Tesco 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 Tesco's fulfillment of all its obligations in this Agreement, OFCCP will not institute administrative or judicial enforcement proceedings under E.O. 11246, Section 503, and/or VEVRAA based on the violations alleged in the NOV. However, OFCCP retains the right to initiate legal proceedings to enforce this Agreement if Tesco 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 Tesco'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. Tesco 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 Tesco of its obligation to fully comply with the requirements of E.O. 11246, Section 503, VEVRAA, their implementing regulations, or other applicable laws requiring nondiscrimination or equal employment opportunity through affirmative action.

4. Tesco and OFCCP agree that any release of claims required by this Agreement will only pertain to claims under E.O. 11246, Section 503, and/or VEVRAA.
5. Tesco 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 District 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 Tesco submits its final progress report required in Section IV, below, unless OFCCP notifies Tesco in writing before the expiration date that Tesco 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 Tesco has met all of its obligations under the Agreement.
11. If Tesco violates this Agreement:
 - a. The procedures at 41 C.F.R. § 60-1.34, 41 C.F.R. § 60-300.63 and 41 C.F.R. § 60-741.63 will govern:
 - i. OFCCP will send Tesco a written notice stating the alleged violations and summarizing any supporting evidence.
 - ii. The Tesco 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 Tesco 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 the Tesco, 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. Tesco may be subject to the sanctions set forth in Section 209 of the Executive Order, 41 C.F.R. § 60-1.27, 41 C.F.R. § 60-741.66, or 41 C.F.R. § 60-300.66, and/or other appropriate relief for violating this Agreement.
- 12. Tesco neither admits nor denies any violation of the Executive Order, Section 503 or VEVRAA, 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 the United States Department of Labor.
- 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 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. Technical Violations and Remedies

- 1. **VIOLATION:** During the period July 1, 2019 through June 30, 2020, Tesco failed to collect, maintain and have available records showing the gender, race, and ethnicity of each applicant or Internet Applicant as required by 41 C.F.R. §§ 60-1.12 (a) and (c). Specifically, Tesco failed to collect and maintain the gender, race, and ethnicity of each applicant or Internet Applicant and failed to keep the records for a period of not less than two years from the date of the making of the record or the personnel action, which ever occurred later.

As of July 1, 2020 Tesco implemented a process in their Human Resources Information System to capture the voluntary self-identification of the gender, race, and ethnicity of each applicant or Internet Applicant.

REMEDY: Tesco will collect, maintain and have available records showing the gender, race, and ethnicity of each applicant or Internet Applicant as defined in 41 C.F.R. § 60-1.3, as required by 41 C.F.R. §§ 60-1.12 (a) and (c).

- 2. **VIOLATION:** During the period July 1, 2019 through June 30, 2020, Tesco failed to develop and implement an internal audit and reporting system that periodically measures the effectiveness of its total affirmative action program, as required by 41 C.F.R. § 60-2.17(d)(1) through (4). Specifically, Tesco failed to collect gender, race, and ethnicity of

each applicant or Internet Applicant which limited their ability to ensure that nondiscriminatory policies were carried out.

As of July 1, 2020 Tesco implemented an internal audit and reporting system that periodically measures the effectiveness of its total EO affirmative action program.

REMEDY: Tesco will develop and implement an internal audit and reporting system that periodically measures the effectiveness of its total affirmative action program, as required by 41 C.F.R. § 60-2.17(d)(1) through (4). Specifically, Tesco must: (1) Monitor records of all personnel activity, including referrals, placements, transfers, promotions, terminations, and compensation, at all levels to ensure the nondiscriminatory policy is carried out; (2) Require internal reporting on a scheduled basis as to the degree to which equal employment opportunity and organizational objectives are attained; (3) Review report results with all levels of management; and (4) Advise top management of program effectiveness and submit recommendations to improve unsatisfactory performance.

3. **VIOLATION:** During the period July 1, 2019 through June 30, 2020 Tesco failed to undertake appropriate outreach and positive recruitment activities that were reasonably designed to effectively recruit qualified protected veterans, document these activities, assess their effectiveness, and document its review, in violation of 41 C.F.R. § 60-300.44(f). Specifically, Tesco stated that no specific outreach and recruitment of qualified protected veterans had been undertaken during the review period.

As of July 1, 2020 Tesco's recruitment staff received specific training to expand Tesco's outreach and recruitment efforts to attract qualified protected veteran applicants.

REMEDY: Tesco will undertake appropriate outreach and positive recruitment activities that are reasonably designed to effectively recruit qualified protected veterans, document these activities, assess their effectiveness, and document its review, as required by 41 C.F.R. § 60-300.44(f).

4. **VIOLATION:** During the period July 1, 2019 through June 30, 2020, Tesco failed to design and implement an audit and reporting system, as required by 41 C.F.R. § 60-300.44(h)(1). Specifically, Tesco failed to measure the effectiveness of its affirmative action program; indicate any need for remedial action; determine the degree to which Tesco's objectives have been attained; measure Tesco's compliance with the affirmative action program's specific obligations; and document the actions taken to comply with the obligations of 41 C.F.R. § 60-300.44(h)(1)(i) through (v).

As of July 1, 2020 Tesco has implemented an internal audit and reporting system that periodically measures the effectiveness of its total VEVRAA affirmative action program.

REMEDY: Tesco will design and implement an audit and reporting system, as required by 41 C.F.R. § 60-741.44(h)(1). Specifically, Tesco will design and implement an audit and reporting system that measures the effectiveness of its affirmative action program; indicates any need for remedial action; determines the degree to which Tesco's objectives

have been attained; measures Tesco's compliance with the affirmative action program's specific obligations; and documents the actions taken to comply with these obligations.

5. **VIOLATION:** During the period July 1, 2019 through June 30, 2020, Tesco failed to document and maintain the required data pertaining to applicants and hires, in violation of 41 C.F.R. § 60-300.44(k).

As of July 1, 2020 Tesco began collecting the required data pertaining to applicants and hires for protected veterans.

REMEDY: Tesco will document the following computations or comparisons pertaining to applicants and hires, on an annual basis, and will maintain this data for three (3) years, as required by 41 C.F.R. § 60-300.44(k):

- The number of applicants who self-identified as protected veterans pursuant to 41 C.F.R. § 60-300.42(a), or who are otherwise known as protected veterans;
- The total number of job openings and total number of jobs filled;
- The total number of applicants for all jobs;
- The number of protected veterans hired; and
- The total number of applicants hired.

6. **VIOLATION:** During the period July 1, 2019 through June 30, 2020 Tesco failed to undertake appropriate outreach and positive recruitment activities that were reasonably designed to effectively recruit qualified individuals with disabilities, document these activities, assess their effectiveness, and document its review, in violation of 41 C.F.R. § 60-741.44(f). Specifically, Tesco stated that no specific outreach and recruitment of qualified individuals with disabilities had been undertaken during the review period.

As of July 1, 2020 Tesco's recruitment staff received specific training to expand Tesco's outreach and recruitment efforts to attract qualified individuals with disabilities applicants.

REMEDY: Tesco will undertake appropriate outreach and positive recruitment activities that are reasonably designed to effectively recruit qualified individuals with disabilities, document these activities, assess their effectiveness, and document its review, as required by 41 C.F.R. § 60-741.44(f).

7. **VIOLATION:** During the period July 1, 2019 through June 30, 2020, Tesco failed to design and implement an audit and reporting system, as required by 41 C.F.R. § 60-741.44(h)(1). Specifically, Tesco failed to measure the effectiveness of its affirmative action program; indicate any need for remedial action; determine the degree to which Tesco's objectives have been attained; measure Tesco's compliance with the affirmative action program's specific obligations; and document the actions taken to comply with the obligations of 41 C.F.R. § 60-741.44(h)(1)(i) through (v).

As of July 1, 2020 Tesco has implemented an internal audit and reporting system that periodically measures the effectiveness of its total Section 503 affirmative action program.

REMEDY: Tesco will design and implement an audit and reporting system, as required by 41 C.F.R. § 60-741.44(h)(1). Specifically, Tesco must design and implement an audit and reporting system that measures the effectiveness of its affirmative action program; indicates any need for remedial action; determines the degree to which Tesco's objectives have been attained; measures Tesco's compliance with the affirmative action program's specific obligations; and documents the actions taken to comply with these obligations.

8. **VIOLATION:** During the period July 1, 2019 through June 30, 2020, Tesco failed to document and maintain the required data pertaining to applicants and hires, in violation of 41 C.F.R. § 60-741.44(k).

As of July 1, 2020 Tesco began collecting the required data pertaining to applicants and hires for individuals with disabilities.

REMEDY: Tesco will document the following computations or comparisons pertaining to applicants and hires, on an annual basis, and will maintain this data for three (3) years, as required by 41 C.F.R. § 60-741.44(k):

- The number of applicants who self-identified as individuals with disabilities, or who are otherwise known to be individuals with disabilities;
- The total number of job openings and total number of jobs filled;
- The total number of applicants for all jobs;
- The number of applicants with disabilities hired; and
- The total number of applicants hired.

IV. OFCCP Monitoring Period

1. **Recordkeeping.** Tesco agrees to retain all records relevant to the violations cited in Sections III 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, job applications and personnel records, and any other records or data used to generate the required reports. Tesco will retain the records until this Agreement expires or for the time period consistent with regulatory requirements, whichever is later.

2. **Tesco Reports.**

Tesco will submit the documents and reports described below to: Quanda Evans, Acting Portland Area Office Director, Seattle District Office, 300 Fifth Avenue, Suite 1100 Seattle WA 98104 or at (b) (7)(C), (b) (6)@dol.gov.

REPORT DUE DATE

Report 1: September 1, 2022

REPORTING PERIOD

July 1, 2021 – June 30, 2022

- a. Pursuant to Remedy 1: The total number of applicants and hires for each AAP job group with a breakdown by applicable gender, race and/or ethnic group of applicants and hires as defined in 41 C.F.R. § 60-1.3, as required by 41 C.F.R. §§ 60-1.12 (a) and (c).
 - b. Pursuant to Remedy 2: Evidence that Tesco has developed and implemented an internal audit and reporting system that periodically measures the effectiveness of its total AAP as required by 41 C.F.R. § 60-2.17(d)(1) through (4).
 - c. Pursuant to Remedies 3 and 6: Tesco will provide documentation (i.e. copies of letters, memos, record of telephone calls, record of meetings, emails, etc.) that it has undertaken appropriate outreach and positive recruitment activities for protected veterans and individuals with disabilities, such as those described at 41 C.F.R. §§ 60-300.44(f)(2) and 60-741.44(f)(2). Tesco will also provide its annual assessment of the effectiveness of each external outreach and recruitment effort and the assessment in totality of outreach and positive recruitment efforts, as described at 41 C.F.R. §§ 60-300.44(f)(3) and 60-741.44(f)(3).
 - d. Pursuant to Remedies 4 and 7: Tesco will provide documentation of its audit and reporting systems for its VEVRAA and Section 503 AAP that includes the actions taken to comply with the obligations described at 41 C.F.R. §§ 60-300.44(h)(1)(i) through (v) and 60-741.44(h)(1)(i) through (v) .
 - e. Pursuant to Remedies 5 and 8: Documentation of Tesco's computations or comparisons pertaining to applicants and hires required by 41 C.F.R. §§ 60-300.44(k) and 60-741.44(k):
 - i. The number of applicants who self-identified as protected veterans, or who are otherwise known to be protected veterans;
 - ii. The number of applicants who self-identified as individuals with disabilities, or who are otherwise known to be individuals with disabilities;
 - iii. The total number of job openings and total number of jobs filled;
 - iv. The total number of applicants for all jobs;
 - v. The number of protected veteran applicants hired;
 - vi. The number of individuals with disabilities hired; and
 - vii. The total number of applicants hired.
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 Tesco's final progress report as set forth in Part II, Paragraph 10 above. If OFCCP fails to notify Tesco in writing within sixty (60) days of the date of the final progress report that Tesco 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 Tesco within the allotted time that it has not fulfilled all of its obligations, this Agreement is automatically extended until the date that OFCCP determines Tesco has met all of its obligations under the Agreement.

V. SIGNATURES

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

This Agreement is hereby executed by and between the Office of Federal Contract Compliance Programs and Tesco Controls, Inc.

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

Shain Thomas
CEO
Tesco Controls, Inc
8440 Florin Road
Sacramento, CA 95828

DATE: 4/12/2021

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

Quanda Evans
Acting Portland Area Director
Office of Federal Contract
Compliance Programs
Seattle District Office

DATE: 05/05/2021

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

Leigh Jones
District Director
Office of Federal Contract
Compliance Programs
Seattle and Portland Offices

DATE: _____