

Conciliation Agreement  
Between the  
U.S. Department of Labor Office of Federal Contract Compliance Programs  
and  
Arc Energy Services, Inc.

**I. Preliminary Statement**

The Office of Federal Contract Compliance Programs (OFCCP) initiated a complaint investigation of Arc Energy Services, Inc. (Arc) located at 1876 Midland Road, Rock Hill, SC 29730 on November 17, 2020, and found that Arc was not in compliance 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 consideration described in this document, OFCCP and Arc enter into this Conciliation Agreement (Agreement) and its attachments, and the parties agree to all the terms therein.

**II. General Terms and Conditions**

1. In exchange for Arc's fulfillment of all its obligations in this Agreement, OFCCP will not institute administrative or judicial enforcement proceedings under Executive Order 11246, as amended, Section 503 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 793 (Section 503), and/or the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, 38 U.S.C. § 4212 (VEVRAA) based on the violations alleged in Part III below. However, OFCCP retains the right to initiate legal proceedings to enforce this Agreement if Arc violates any provision of this Agreement, as set forth in Paragraph 10, below. Nothing in this Agreement precludes OFCCP from initiating enforcement proceedings based on future compliance evaluations or complaint investigations.
2. OFCCP may review Arc'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. Arc 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 OFCCP requests, including those specified in this Agreement.
3. Nothing in this Agreement relieves Arc 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. Arc 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.

5. The parties understand the terms of this Agreement and enter into it voluntarily.
6. This Agreement 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.
7. This Agreement becomes effective on the day it is signed by the Director of Regional Operations (Effective Date).
8. If one or more provisions of this Agreement is deemed unlawful or unenforceable, the remaining provisions will remain in full force and effect.
9. This Agreement will expire sixty (60) days after Arc submits its final progress report required in Section IV, below, unless OFCCP notifies Arc in writing before the expiration date that Arc 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 Arc has met all of its obligations under the Agreement.
10. If Arc violates this Agreement:
  - a. The procedures at 41 CFR § 60-1.34 will govern:
    - i. OFCCP will send Arc a written notice stating the alleged violation(s) and summarizing any supporting evidence.
    - ii. Arc 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 Arc 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.
    - iv. In the event of a breach of this Agreement by the Arc, 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 in the Agreement.
  - b. Arc 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.
11. Arc does not admit any violation of the Executive Order, Section 503, or VEVRAA, nor has there been an adjudication on the merits regarding any such violation.

12. OFCCP may seek enforcement of this Agreement itself and is not required to present proof of any underlying violations resolved by this Agreement.
13. 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.
14. Each party shall bear its own fees and expenses with respect to this matter.
15. 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.
16. 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:** Arc failed to preserve and maintain all personnel or employment records in violation of 41 CFR 60-1.12(a). Specifically, Arc failed to maintain copies of records pertaining to hiring and assignment and records identifying job seekers contacted regarding their interest in a particular position, as required.

**REMEDY:** Arc will preserve and maintain all personnel and employment records in accordance with 41 CFR 60-1.12(a).

2. **VIOLATION:** Arc failed to identify and maintain the gender, race, and ethnicity of each employee and, where possible, the gender, race, and ethnicity of each applicant or Internet Applicant as defined in 41 CFR Part 60-1.3, as required by 41 CFR 60-1.12(c)(i),(ii).

**REMEDY:** Arc will identify and maintain the gender, race, and ethnicity of each employee and, where possible, each applicant or Internet Applicant as required by 41 CFR 60-1.12(c)(i),(ii).

3. **VIOLATION:** Arc failed to take specific affirmative actions to ensure equal employment opportunity, as required by 41 CFR 60-4.3(a)7. Specifically, Arc failed to implement the affirmative action steps detailed in 41 CFR 60-4.3(a)7a-p.

**REMEDY:** Arc will document its implementation of all 16 affirmative action steps set forth in 41 CFR 60-4.3(a) 7a-p, maintain this documentation, and make it available to the OFCCP upon request.

#### IV. OFCCP Monitoring Period

1. **Recordkeeping.** Arc agrees to retain all records relevant to the violations cited in Section 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. Arc will retain the records until this Agreement expires or for the time period consistent with regulatory requirements, whichever is later.
2. **Arc Reports.**

Arc agrees to furnish OFCCP with the following report during the Monitoring Period. The report will contain the documentation specified below:

- a. Progress Report 1: Due on August 1, 2022 covering the period of July 1, 2021 through June 30, 2022.

Pursuant to Remedies 1& 2:

1. A copy of the log used to track the names, addresses, and telephone numbers of each female and minority applicant, including walk-in applicants and referrals made by community organizations and recruitment sources. The documentation shall include any action taken with respect to each female and minority applicant. This log should include the following information: name of applicant; race, gender, and ethnicity (i.e., Hispanic or non-Hispanic); date of application; job title applied and/or considered for; address of applicant; phone number of applicant; date of hire (if applicable); the recruitment source that referred the individual (if applicable); and the starting pay rate of each hired applicant. Also, provide the reason why any minority or female applicant was not selected.

Pursuant to Remedy 2:

2. A list of all Arc employees that includes: name job title, race, ethnicity, and gender.

Pursuant to Remedy 3:

3. Documentation of actions taken to ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which Arc's employees are assigned to work. Arc, where possible, will assign two or more women to each construction project. Arc shall specifically ensure that all foremen, superintendents, and other on-site supervisory personnel employed by Arc are aware of and carry out Arc's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities. To the extent Arc assigns employees to projects



where it does not have on-site foremen, superintendents, or other supervisory personnel, it will provide employees with reporting mechanisms to report any harassment, intimidation, or coercion at such sites.

4. In the event that Arc engages in any recruitment activity, documentation that Arc developed and maintains a current list of minority and female recruitment sources, and notifies in writing, minority and female recruitment sources and community organizations when Arc has employment opportunities available, and maintains a record of the organizations' responses.
5. Documentation that Arc developed and implemented a system that maintains a current list of the names, addresses and telephone numbers of each minority and female off-the-street applicant and referrals from recruitment sources; and indicates what action has been taken with respect to each such individual.
6. Documentation that Arc made good faith efforts to develop on-the-job training opportunities or participated in training programs within its recruiting areas that expressly include members of minority groups and women.
7. Documentation that Arc disseminated its EEO policy, and reviewed the policy with all management personnel and with all minority and female full-time core employees at least once a year. This documentation will include at least the time and place of the review and a sign-in sheet of all in attendance. For all non-full-time employees, Arc will ensure that a copy of its EEO policy is provided to each employee at the time of hire and provide evidence to confirm dissemination to OFCCP upon request.
8. Documentation that all employees having any responsibility for hiring, assignment, layoff, termination, or other employment decisions at current work sites and prior to the initiation of construction work at future job sites reviewed Arc's EEO policy and affirmative action obligations and were advised of their obligations to support and carry out the policy. Documentation will include verifications from such supervisory employees as well as the language reviewed and acknowledged by the supervisory employees.
9. Documentation that Arc disseminated its policy regarding equal employment opportunity externally by including verbiage regarding equal employment opportunity in any advertising, and provided written communication in regard to its EEO policy to all federal contractors and subcontractors with which Arc has or anticipates doing greater than \$10,000 in business.
10. To the extent Arc engages in recruitment, documentation that Arc directed its recruitment efforts, both oral and written, to minority and female community organizations, to schools with minority and female students, and to minority and female recruitment and training organizations serving Arc's recruitment area and employment needs.

11. Documentation that Arc encourages present minority and female employees to recruit other minority persons and women and, where reasonable, provides after school, summer, and vacation employment to minority and female youth both on the site and in other areas of Arc's workforce.
12. If applicable, documentation to confirm that Arc validates all tests and other selection requirements where there is an obligation to do so under 41 CFR 60-3.
13. Documentation that Arc conducted, at least annually, an inventory and evaluation of at least all minority and female personnel for promotional opportunities and encouraged these employees to seek or to prepare for, through appropriate training, etc., such opportunities.
14. Documentation that Arc implemented and developed a system to ensure that seniority practices, job classifications, work assignments and other employment practices do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and Arc's obligations under 60-4.3(a)7 are being carried out.
15. Documentation that Arc developed and implemented a system under which it reviews its supervisors' adherence to the company's equal employment opportunity and affirmative action obligations and addresses any identified problems. These reviews and corrective procedures must be repeated at least annually.
16. Documentation that Arc designated a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out. This official shall be responsible for maintaining records related to the implementation of Arc's EEO policies and affirmative action obligations, and shall submit such records to the Government, as appropriate.

Arc will submit the report to Evan D. Szarenski, Director of Regional Operations, at (b) (6), (b) (7)(C)@dol.gov. Arc 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 Arc provides in accordance with this Agreement are trade secrets, commercial, and/or financial in nature, and customarily kept private or closely-held, and Arc believes should remain confidential under Exemption 4 of the Freedom of Information Act (FOIA) in the event of a FOIA request, Arc will provide such reports to OFCCP marked as "Confidential". In the event of a FOIA request, OFCCP will promptly notify Arc of the FOIA request and provide Arc an opportunity to object to disclosure. OFCCP will withhold disclosure of such reports to the maximum extent allowable by law.

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 Arc's final progress report as set forth in Section II, Paragraph 9 above. If OFCCP fails to notify Arc in writing within sixty (60) days of the date of the final progress report that Arc 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 Arc within the allotted time that it has not fulfilled all of its obligations, this Agreement is automatically extended until the date that OFCCP determines Arc has met all of its obligations under the Agreement

## V. SIGNATURES

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

This Agreement is hereby executed by and between the Office of Federal Contract Compliance Programs and Arc Energy Services, Inc., 876 Midland Road, Rock Hill, SC 29730.

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

ROGER DALE PHILLIPS, II  
Chief Executive Officer  
Arc Energy Services, Inc.  
Rock Hill, SC 29730

DATE: 7-6-2021

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

EVAN D. SZARENSKI  
Director of Regional Operations  
Mid-Atlantic Regional Office

DATE: July 7, 2021