

Conciliation Agreement
Between the
U.S. Department of Labor Office of Federal Contract Compliance Programs
And
TUV SUD AMERICA, INC.
10 Centennial Drive
Peabody, MA 01960-7938
OFCCP NO. R00302239

I. Preliminary Statement

The Office of Federal Contract Compliance Programs (OFCCP) evaluated TUV SUD AMERICA, INC. (hereinafter Contractor) establishment located at 10 Centennial Drive, Peabody, MA 01960-7938, beginning on December 15, 2020. OFCCP found that Contractor failed to comply with Section 503 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 793 (Section 503).

OFCCP notified Contractor of the specific violation(s) and the corrective action(s) required in a Notice of Violation (NOV) issued on October 25, 2021.

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 Contractor 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 Contractor'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 violation(s) alleged in the NOV. However, OFCCP retains the right to initiate legal proceedings to enforce this Agreement if Contractor 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 Contractor'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. Contractor 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 Contractor 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. Contractor 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 District Director (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 Contractor submits its final progress report required in Section IV, below, unless OFCCP notifies Contractor in writing before the expiration date that Contractor 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 Contractor has met all of its obligations under the Agreement.
10. If Contractor violates this Agreement:
 - a. The procedures at 41 C.F.R. 60-741.63 will govern:
 - i. OFCCP will send Contractor a written notice stating the alleged violation(s) and summarizing any supporting evidence.
 - ii. The Contractor 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 Contractor 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 Contractor, 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. Contractor may be subject to the sanctions set forth in 41 C.F.R. 60-741.66 and/or other appropriate relief for violating this Agreement.
11. Contractor does not admit any violation of Section 503, 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:** During the period of August 1, 2019 through July 31, 2020. Contractor 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 CFR 60-741.44(f). Specifically, Contractor did not conduct effective targeted and positive outreach recruitment to attract qualified individuals with disabilities to its workforce.

REMEDY: Contractor will undertake appropriate external outreach and positive recruitment activities that are reasonably designated to effectively recruit qualified individuals with disabilities, such as those described at 41 CFR 60-741.44(f)(2). Contractor will annually review its outreach and recruitment activities, assess their effectiveness, and document this review, in accordance with 41 CFR 60-741.44(f)(3). Contractor will document all activities it undertakes to comply with this section, in accordance with 41 CFR 60-741.44(f)(4).

2. **VIOLATION:** During the period of August 1, 2019 through July 31, 2020, Contractor failed to implement an effective audit and reporting system which measured the effectiveness of its affirmative action program, indicated the need for remedial action, determined the degree to which the its objectives have been attained and measured its compliance with the affirmative action program’s specific obligations. Specifically,

Contractor's audit and reporting system failed to recognize its ineffective outreach and recruitment, as noted in Violation 1. 41 CFR 60-741.44 (h)(1) and (2).

REMEDY: Contractor will design and implement an audit and reporting system, which measure the effectiveness of its affirmative action program, indicates the need for remedial action, determines the degree to which its objectives have been attained and measures its compliance with the affirmative action programs specific obligations. Contractor will demonstrate it has made good faith efforts to remove identified barriers and expand employment opportunities for qualified individuals with disabilities. Contractor will undertake any necessary action to bring the program into compliance where the affirmative action program is found to be deficient. Contractor will preserve all documentation it makes or keeps in either electronic or hard copy format to audit the progress of its AAPs and to demonstrate Contractor's good faith efforts. Contractor will incorporate these analyses and determinations into its now-current AAPs. Contractor will update this audit and reporting system annually and incorporate them into its future AAPs. 41 CFR 60-741.44 (h) (1) and (2).

IV. **OFCCP Monitoring Period**

1. **Recordkeeping.** Contractor agrees to retain all records relevant to the violation(s) 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. Contractor will retain the records until this Agreement expires or for the time period consistent with regulatory requirements, whichever is later.

2. **Contractor Reports.**

Schedule and Instructions. Contractor agrees to furnish OFCCP with the following reports during the Monitoring Period according to the following schedule:

Contractor will submit two progress reports. The **first** progress report shall be due seven (7) months after the Effective date of the Agreement and will cover the 6-month period following the Effective date of the Agreement. The **second** progress report shall be due thirteen (13) months after the Effective date of the Agreement and will cover the subsequent 6-month period beginning following the first report.

Contractor will submit the following progress reports:

The **first report** shall contain the following:

- a. A description and documentation of each outreach activity/effort targeted to recruit individuals with disabilities taken by Contractor during the reporting period. This may include a variety of activities and efforts, such as creating internship programs for students with disabilities from local and colleges and universities; using the Workforce Recruitment Program for students and graduates with disabilities to

identify qualified temporary and permanent job candidates; participating in job fairs targeting qualified individuals with disabilities; using local disability service organizations or other resources identified by the contractors existing Employee Resource Group on disability to recruit qualified temporary and permanent job candidates; and identify and recruiting students with disabilities studying in science, engineering, mathematics, computer science, and some fields of business for internships using American Association for the Advancement of Science entry Point.

- b. A listing of the following data:
 - i. Total number of applicants,
 - ii. Total number of applicants who identified as an individual with a disability,
 - iii. Total number of jobs filled, and
 - iv. Total number of individuals with disabilities hired

The *second report* shall consist of the following:

- a. A copy of Contractor's Audit and Reporting Section from its August 1, 2022 – July 31, 2023 Section 503 AAP, developed pursuant to 41 CFR 60-741.44(h)(1) and (2).
- b. A description and documentation of each outreach activity/effort targeted to recruit individuals with disabilities taken by Contractor during the reporting period. This may include a variety of activities and efforts, such as creating internship programs for students with disabilities from local and colleges and universities; using the Workforce Recruitment Program for students and graduates with disabilities to identify qualified temporary and permanent job candidates; participating in job fairs targeting qualified individuals with disabilities; using local disability service organizations or other resources identified by the contractors existing Employee Resource Group on disability to recruit qualified temporary and permanent job candidates; and identify and recruiting students with disabilities studying in science, engineering, mathematics, computer science, and some fields of business for internships using American Association for the Advancement of Science entry Point.
- c. A listing of the following data:
 - i. Total number of applicants,
 - ii. Total number of applicants who identified as an individual with a disability,
 - iii. Total number of jobs filled, and
 - iv. Total number of individuals with disabilities hired

Contractor will submit reports electronically to District Director Rhonda Aubin-Smith via e-mail at (b) (6), (b) (7)(C)@dol.gov .

Contractor 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 Contractor provides in accordance with this Agreement are trade secrets, commercial, and/or financial in nature, and customarily kept private or closely-held, and the Contractor believes should remain confidential under Exemption 4 of the Freedom of Information

Act (FOIA) in the event of a FOIA request, Contractor will provide such reports to OFCCP marked as "Confidential". In the event of a FOIA request, OFCCP will promptly notify Contractor of the FOIA request and provide Contractor 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 Contractor's final progress report as set forth in Section II, Paragraph 9 above. If OFCCP fails to notify Contractor in writing within sixty (60) days of the date of the final progress report that Contractor 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 Contractor within the allotted time that it has not fulfilled all of its obligations, this Agreement is automatically extended until the date that OFCCP determines Contractor has met all of its obligations under the Agreement.

V. SIGNATURES

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

This Agreement is hereby executed by and between the Office of Federal Contract Compliance Programs and TUV SUD AMERIC INC, located at 10 Centennial Drive, Peabody, MA 01960-7938.

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

John Tesoro
President and CEO
TUV SUD AMERICA, INC.

DATE: 11/22/2021

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

(b) (6), (b) (7)(E)
Compliance Officer
Boston District Office
Northeast Region

DATE: 11/29/2021

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

Adriana Lopez
Assistant District Director
Boston District Office
Northeast Region

DATE: 11/29/2021

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

Rhonda Aubin-Smith
District Director
Boston District Office
Northeast Region

DATE: 11/30/2021