

Conciliation Agreement
Between the
U.S. Department of Labor Office of Federal Contract Compliance Programs
and
Southern Missouri Containers, Inc.

I. Preliminary Statement

The Office of Federal Contract Compliance Programs (OFCCP) evaluated Southern Missouri Containers, Inc. at PO Box 4306, Springfield, MO 65808, beginning on December 18, 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) and its respective implementing regulations at 41 CFR 60-741.42, 60-741.80, and 60-741.44(f)(3).

OFCCP notified Contractor of the specific violations and the corrective actions required in a Notice of Violation (NOV) issued on April 19, 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 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 its compliance with this Agreement. As part of such review, OFCCP may review written reports, inspect the premises, interview witnesses, and examine and copy documents as may be relevant to the matter under investigation and pertinent to Contractor's compliance. Contractor will permit access to its premises during normal business hours for these purposes and will provide OFCCP with all reports and documents required.
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 David Smith (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. A written notice shall be sent to the Contractor setting forth the violation alleged and summarizing the supporting evidence.
 - ii. The Contractor shall have 15 days from the receipt of the notice to respond, except in those cases in which OFCCP asserts that such a delay would result in irreparable injury to the employment rights of the affected employees or applicants.
 - iii. During the 15-day period the Contractor may demonstrate in writing that it has not violated its commitments.
 - iv. In those cases in which OFCCP asserts that a delay would result in irreparable injury to the employment rights of affected employees or applicants, enforcement proceedings may be initiated immediately.
 - v. In any proceedings involving an alleged violation of this Conciliation Agreement, OFCCP may seek enforcement of the Agreement itself and shall not be required to present proof of the underlying violations resolved by 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. This Agreement does not constitute an admission by Contractor of any violation of or noncompliance with EO 11246, Section 503 of the Rehabilitation Act of 1973, as amended (“Section 503”), the Vietnam Era Veterans Readjustment Assistance Act of 1974 (“VEVRAA”) and their implementing regulations at 41 CFR Chapter 60, nor has there been an adjudicated finding that Contractor violated any laws.
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 December 01, 2019 through November 30, 2020, Southern Missouri Containers, Inc. failed to keep and preserve complete and accurate personnel and employment records, in violation of 41 CFR 60-741.80. Specifically, Southern Missouri Containers, Inc. failed to keep personnel or employment records specific to Section 503 obligations; failed to keep the records specified in 60-741.44(k) for three years.

Remedy: Southern Missouri Containers, Inc. must keep and preserve complete and accurate personnel and employment records, in accordance with 41 CFR 60-741.80, and will keep and preserve those records specified in 41 CFR 60-741.44(k) for a period of three years from the date of the making of the record.

2. **Violation:** During the period December 01, 2019 through November 30, 2020, Southern Missouri Containers, Inc. failed to invite its employees and applicants for employment to voluntarily self-identify as an individual with a disability, using the OMB-approved form for this purpose, in violation of 41 CFR 60-741.42. Specifically, Southern Missouri Containers, Inc. failed to use the OMB-approved form, failed to conduct the initial survey of its employees, and; failed to invite employees the opportunity to self-identify at pre-offer.

Remedy: Southern Missouri Containers, Inc. shall invite both its applicants for employment, and its employees, to voluntarily self-identify as an individual with a disability, in accordance with 41 CFR 60-741.42. All invitations to self-identify must be made using the OMB-approved form for this purpose (available on the OFCCP website). More specifically, Southern Missouri Containers, Inc. shall invite each of its applicants for employment, prior to an offer of employment, to voluntarily inform it whether the applicant believes that he or she is an individual with a disability, as that term is defined in 41 CFR 60-741.2(g)(1)(i) or (ii). Southern Missouri Containers, Inc. shall also invite each of its applicants for employment, after an offer of employment has been made and before the applicant begins work, to voluntarily inform it whether the applicant believes that he or she is an individual with a disability. In addition, during the first year it is subject to this requirement, Southern Missouri Containers, Inc. shall invite each of its employees to voluntarily self-identify as an individual with a disability, and then extend this invitation again at five year intervals, thereafter. At least once during each interval, Southern Missouri Containers, Inc. shall remind its employees that they may voluntarily update their disability-related self-identification information at any time. Southern Missouri Containers, Inc. must keep all self-identification information confidential and maintain it in a separate data analysis file, rather than in its personnel or medical files, in accordance with 41 CFR 60-741.42(e).

3. **Violation:** During the period December 01, 2019 through November 30, 2020, Southern Missouri Containers, Inc. failed to annually review the effectiveness of the outreach and recruitment efforts it took over the previous twelve months to identify and recruit qualified individuals with disabilities as required by 41 CFR 60-741.44(f)(3).

Remedy: Southern Missouri Containers, Inc. must annually review its outreach and recruitment activities, assess their effectiveness, and document this review, in accordance with 41 CFR 60-741.44(f)(3). If Southern Missouri Containers, Inc. concludes that the totality of its efforts were not effective in identifying and recruiting qualified individuals with disabilities, it shall identify and implement alternative efforts listed in 41 CFR 60-741.44(f)(1) or (f)(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.**

Contractor agrees to furnish OFCCP with the following reports during the Monitoring Period. Each report will contain the documentation specified according to the dates scheduled:

- a. **Progress Report 1:** Due on January 31, 2022 covering the period of the effective date of the agreement through November 30, 2021.

Documentation of:

1. Copy of Southern Missouri Containers, Inc.'s current Job Group Assessment and Job Group Summary, prepared in accordance with the requirements of 41 CFR §§ 60-1.40 and 60-2.1 through 60-2.17;
2. Copy of Southern Missouri Containers, Inc.'s current Section 503 AAP prepared in accordance with the requirements of 41 CFR §§ 60-741.40 through 60-741.47;
3. Results of the evaluation of the effectiveness of outreach and recruitment efforts that were intended to identify and recruit qualified individuals with disabilities as described in 41 CFR § 60-741.44(f);
4. Documentation of the computations or comparisons described in 41 CFR § 60-741.44(k) for the progress report one period;
5. The utilization analysis evaluating the representation of individuals with disabilities in each job group as provided in 41 CFR § 60-741.45.;
6. A sampling of filled-out self-identification forms completed by applicants; and,
7. A narrative summary of how Southern Missouri Containers maintained all hiring records during the reporting period, supported with a sampling of the hiring record documentation.

- b. **Progress Report 2:** Due on January 31, 2023 covering the period of December 01, 2021 through November 30, 2022.

Documentation of:

1. Copy of Southern Missouri Containers, Inc.'s current Job Group Assessment and Job Group Summary, prepared in accordance with the requirements of 41 CFR §§ 60-1.40 and 60-2.1 through 60-2.17;
2. Copy of Southern Missouri Containers, Inc.'s current Section 503 AAP prepared in accordance with the requirements of 41 CFR §§ 60-741.40 through 60-741.47;
3. Results of the evaluation of the effectiveness of outreach and recruitment efforts that were intended to identify and recruit qualified individuals with disabilities as described in 41 CFR § 60-741.44(f);

4. Documentation of the computations or comparisons described in 41 CFR § 60-741.44(k) for the progress report two period;
5. The utilization analysis evaluating the representation of individuals with disabilities in each job group as provided in 41 CFR § 60-741.45;
6. A sampling of filled-out self-identification forms completed by applicants; and,
7. A narrative summary of how Southern Missouri Containers, Inc. maintained all hiring records during the reporting period, supported with a sampling of the hiring record documentation.

Contractor will submit reports to Compliance Officer (b) (7)(C), (b) (7)(E) via email 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.

[Note: Rest of the page left intentionally blank]

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 Southern Missouri Containers, Inc., PO Box 4306, Springfield, MO 65808.

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

Mark McNay
General Manager / SVP
Southern Missouri Containers, Inc.
Springfield, MO 65808-4306

DATE: June 10th, 2021

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

David Smith
District Director
OFCCP, Indianapolis District Office
Midwest Region

DATE: June 15, 2021

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

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

Compliance Officer
Midwest Region

DATE: June 14th, 2021