

**CONCILIATION AGREEMENT
BETWEEN THE
U.S. DEPARTMENT OF LABOR OFFICE OF FEDERAL CONTRACT COMPLIANCE
PROGRAMS
AND
DRAEGER MEDICAL SYSTEMS, INC.
6 TECH DRIVE
ANDOVER, MA 01810
OFCCP NO. R00301919**

I. Preliminary Statement

The Office of Federal Contract Compliance Programs (OFCCP) evaluated Draeger Medical Systems, Inc. (Contractor) establishment located at 6 Tech Drive, Andover, MA 01810-2434 beginning on April 30, 2020. OFCCP found that Contractor failed to comply with Executive Order 11246, as amended (E.O. 11246 or the Executive Order) and the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, 38 U.S.C. § 4212 (VEVRAA) and their respective implementing regulations.

OFCCP notified Contractor of the specific violation(s) and the corrective action(s) required in a Notice of Violation (NOV) issued on May 4, 2022.

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 violations 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. 60-1.34 and 41 C.F.R. 60-300.63 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 Section 209 of the Executive Order, 41 C.F.R. 60-1.27 or 41 C.F.R. 60-300.66 and/or other appropriate relief for violating this Agreement.
11. Contractor 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 1:** During the period January 1, 2019 through December 31, 2019, Contractor failed to combine jobs at its establishments with similar content, wage rates, and opportunities to form job groups in its Affirmative Action Programs (AAPs), as required by 41 C.F.R. § 60-2.12(b). On February 26, 2021, Contractor submitted a revised job group analysis along with major AAP elements, which included a revised workforce analysis, job group analysis, availability, placement goals, revised personnel activity, and compensation. Upon review of the new Job Group Analyses, it was found that some of the new job groups were crossing EEO1 categories in the following: 1NS (Product Development/ NE Support), 07NS (Shared Services/NE Support) and 3NS Production/NE Support).

Remedy: On June 6, 2022, Contractor provided data to show that the noted Job Groups were no longer crossing EEO-1 categories. Contractor will continue to develop and include in the AAP a job group analysis that combines job titles at the establishment

with similar content, opportunities, and wage rates. These job groups will not cross EEO1 categories as required by 41 CFR 60-2.12. No reporting will be required for this issue.

2. **Violation:** During the period of January 1, 2019 through December 31, 2019, Contractor failed to undertake appropriate outreach and positive recruitment activities that were reasonably designed to effectively recruit protected veterans, in violation of 41 CFR 60-300.44(f)(1)(i). Specifically, Contractor did not conduct effective targeted and positive outreach recruitment to attract qualified protected veterans into its workforce.

Remedy: Contractor will undertake appropriate external outreach and positive recruitment activities that are reasonably designed to effectively recruit protected veterans, such as those described at 41 CFR 60-300.44(f)(2). Contractor will annually review its outreach and recruitment activities, assess their effectiveness, and document this review, in accordance with 41 CFR 60-300.44(f)(3). Contractor will document all activities it undertakes to comply with this section, in accordance with 41 CFR 60-300.44(f)(4).

3. **Violation:** During the period January 1, 2019 through December 31, 2019, 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 2, in accordance with 41 CFR 60-300.44 (h) (1) and (2).

Remedy: Contractor will design and implement an audit and reporting system which measures the effectiveness of Contractor's affirmative action program, indicates the need for remedial action, determines the degree to which the contractor's objectives have been attained and measures Contractor's compliance with the affirmative action program's specific obligations. Contractor will document the actions it takes to comply with these audit and reporting obligations and 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 Contractor's AAPs. Contractor will incorporate these analyses and determinations into Contractor's now-current AAPs. Contractor will update this audit and reporting system annually and incorporate them into Contractor's future AAPs. 41 CFR 60-300.44 (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 (2) progress reports. The *first progress* report shall be due on **February 28, 2023** and will cover the period of the effective date of this Agreement to December 31, 2022. The *second progress* report shall be due on **August 31, 2023** and will cover the period of January 1, 2023 through June 30, 2023.

The *First report and second report* shall consist of the following:

- a. A copy of Contractor's current year Audit and Reporting Section from its VEVRAA AAP developed pursuant to 41 CFR 60-300.44(h)(1) and (2).
- b. A description and documentation of each outreach activity/effort targeted to recruit protected veterans taken by Contractor during the reporting period. This may include a variety of activities and efforts, such as participation in job fairs, recruitment efforts in coordination with educational institutions, apprenticeships, and providing identified sources serving protected veterans with job announcements. A copy of Contractor's evaluation of each activity's effectiveness, and its annual assessment of the effectiveness of the totality of its outreach efforts, as required 41 CFR 60-300.44(f).
- c. Provide the number of applicants who self-identified as protected veterans, or who are otherwise known to be protected veterans; the total number of job openings and total numbers of jobs filled; total number of applicants for all jobs; the number of protected veteran applicants hired and the total numbers.

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 customarily kept private or closely held, and 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 treat any such documents received as confidential documents.

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 10 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 Draeger Medical Systems, Inc. 6 Tech Drive, Andover, MA 01810-2434.

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

Cecile Wright
Executive Vice President, Human Resources
and Chief Administrative Officer
Draeger Medical Systems, Inc.

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

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

June 16, 2022

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

Adriana Lopez
Assistant District Director
Boston District Office
Northeast Region

DATE: 06/21/2022

DATE: 06/21/2022

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

Rhonda Aubin-Smith
District Director
Boston District Office
Northeast Region

DATE: 06/21/2022