

Conciliation Agreement
Between the
U.S. Department of Labor Office of Federal Contract Compliance Programs
and
US COATINGS, LLC

I. Preliminary Statement

The Office of Federal Contract Compliance Programs (OFCCP) evaluated the US Coatings, LLC (US Coatings), 260 Baldwin Road, Satsuma, Alabama 36572 beginning on August 21, 2021. OFCCP found that US Coatings failed to comply with 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) and their respective implementing regulations at 41 C.F.R. Chapter 60.

OFCCP notified US Coatings of the specific violation(s) and the corrective action(s) required in a Notice of Violation (NOV) issued on August 17, 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 US Coatings enter into this Conciliation Agreement (Agreement) and its attachments, and the parties agree to all the terms therein.

II. General Terms and Conditions

In exchange for US Coatings' 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 US Coatings 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.

OFCCP may review US Coatings' compliance with this Agreement. As part of this review, OFCCP may require written reports, inspect the premises, interview witnesses, and examine and copy documents. US Coatings 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.

Nothing in this Agreement relieves US Coatings 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.

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US Coatings 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.

The parties understand the terms of this Agreement and enter into it voluntarily.

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.

This Agreement becomes effective on the day it is signed by the District Director (Effective Date).

If one or more provisions of this Agreement is deemed unlawful or unenforceable, the remaining provisions will remain in full force and effect.

This Agreement will expire sixty (60) days after US Coatings submits its final progress report required in Section IV, below, unless OFCCP notifies US Coatings in writing before the expiration date that US Coatings 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 US Coatings has met all of its obligations under the Agreement.

If US Coatings violates this Agreement:

- a. The procedures at 41 C.F.R. 60-1.34, 41 C.F.R. 60-300.63, and/or 41 C.F.R. 60-741.63] will govern:
 - i. OFCCP will send US Coatings a written notice stating the alleged violation(s) and summarizing any supporting evidence.
 - ii. The US Coatings 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 US Coatings 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 US Coatings, 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. US Coatings 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.

US Coatings 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.

OFCCP may seek enforcement of this Agreement itself and is not required to present proof of any underlying violations resolved by this Agreement.

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.

Each party shall bear its own fees and expenses with respect to this matter.

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.

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, 2020 to June 30, 2021, US Coatings failed to develop, implement, and maintain written AAPs pursuant to a) Executive Order 11246 and its requirements at 41 CFR 60-1.40(a)(1) and 41 CFR 60-2.10-17; b) Section 503 of the Rehabilitation Act of 1973, as amended, and its requirements at 41 CFR 60-741.40-44; and c) the Vietnam Era Veterans’ Readjustment Assistance Act of 1974 (38 USC. 4212), as amended, and its requirements at 41 CFR 60-300.40-44.

Remedy: US Coatings developed and implemented written AAPs pursuant to a) Executive Order 11246, b) Section 503 of the Rehabilitation Act of 1973, and c) the Vietnam Era Veterans’ Readjustment Assistance Act of 1974 (38 USC. 4212), as amended. U. S. Coatings will preserve its Executive Order 11246 AAP, as

required, at 41 CFR 60-1.12(b). US Coatings will annually update and implement the contents of its AAPs, as required at 41 CFR 60-2.10-17; 41 CFR 60-741.40-44; and 41 CFR 60-300.40-44.

2. **Violation:** During the period July 1, 2020 to June 30, 2021, US Coatings failed to perform in-depth analyses of its total employment process to determine whether and where impediments to equal employment opportunity exist. Specifically, US Coatings failed to evaluate: (a) The workforce by organizational unit or job group to determine whether there are problems of female and/or minority utilization; (b) Personnel activity, specifically applicant flow and hiring to determine where there are selection disparities; (c) Selection, recruitment, referral, and other personnel procedures to determine whether they result in disparities in the employment or advancement of minorities, and (d) Any other areas that might impact the success of US Coatings' Affirmative Action Program ("AAP"). 41 CFR 60-2.17(b).

Remedy: US Coatings must: (a) perform in-depth analyses of its total employment process, as specified in "a" through "d" above, in order to determine whether and where impediments to equal employment opportunity exist; (b) develop and execute action-oriented programs referenced in 41 CFR 60-2.17(c) designed to correct any problem area identified pursuant to 41 CFR 60-2.17(b); (c) incorporate these analyses and action-oriented programs in its current AAP; (d) update them in US Coatings' future AAPs; and (e) demonstrate that US Coatings has made good faith efforts to remove identified barriers, expand employment opportunities and produce measurable results.

3. **Violation:** During the period of July 1, 2020 to June 30, 2021, US Coatings failed to keep and preserve complete and accurate personnel and employment records, in violation of 41 CFR 60-1.12(a) and (e); maintain its current AAP and documentation of its good faith effort, as required by 41 CFR 60-1.12(b); preserve its AAP and documentation of good faith effort for the immediately preceding AAP year, as required by 41 CFR 60-1.12(b); maintain and/or have available records showing: the gender, race, and ethnicity of each employee; and where possible, the gender, race, and ethnicity of each applicant or Internet Applicant as required by 41 CFR 60-1.12(c). Specifically, US Coatings failed to keep applicant, testing, interview, hiring or other general personnel or employment records; 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, whichever occurred later.

Remedy: US Coatings must keep and preserve complete and accurate personnel and employment records, in accordance with 41 CFR 60-1.12(a) and (e) and must keep and preserve those records for a period of not less than two years from the date of the making of the record or the personnel action, whichever occurs later. However, if US Coatings has a total workforce of 150 or fewer employees or does not have a government contract of at least \$150,000, the minimum record retention period shall be one year from the making of the record or the personnel action, whichever occurs later, as permitted by 41 CFR 60-1.12(a); maintain its current

AAP and documentation of its good faith efforts, as required by 41 CFR 60-1.12(b); preserve its AAP and documentation of good faith effort for the immediately preceding AAP year, as required by 41 CFR 60-1.12(b); maintain and/or have available records showing 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 60-1.3, as required by 41 CFR 60-1.12(c).

4. **Violation:** During the period July 1, 2020 to June 30, 2021, US Coatings failed to immediately list all employment openings with either the state workforce agency job bank or a local employment service delivery system serving the location where the openings occurred in violation of 41 CFR 60-300.5(a)2-6.

Remedy: US Coatings must list all employment openings as they occur with an appropriate employment service delivery system (ESDS) where the openings occur, in a manner and format that will allow the ESDS to provide priority referrals of protected veterans to US Coatings, as required by 41 CFR 60-300.5(a)2-6. With its initial listing, and as subsequently needed to update the information, US Coatings must also advise the employment service delivery system that it is a federal US Coatings that desires priority referrals of protected veterans for job openings at all locations within the state, and provide the employment service delivery system with the name and address of each of its hiring locations within the state and the contact information for the US Coatings official responsible for hiring at each location, in accordance with 41 CFR 60-300.5(a)4. Should any of the information in the disclosures change since it was last reported to the ESDS, US Coatings shall provide updated information simultaneously with its next job listing.

5. **Violation:** During the period July 1, 2020 to June 30, 2021, OFCCP alleges that US Coatings failed to review its physical and mental qualification standards in violation of 41 C.F.R § 60-300.44(c).

Remedy: US Coatings must review its physical and mental qualification standards as required by 41 C.F.R § 60-300.44(c).

6. **Violation:** During the period July 1, 2020 to June 30, 2021, OFCCP alleges that US Coatings failed to review its physical and mental qualification standards in violation of 41 C.F.R § 60-741.44(c).

Remedy: US Coatings must review its physical and mental qualification standards as required by 41 C.F.R 60-741.44(c).

7. **Violation:** During the period July 1, 2020 to June 30, 2021, US Coatings failed to design and implement an audit and reporting system, as required by 41 CFR 60-300.44(h)(1). Specifically, US Coatings failed to: (a) measure the effectiveness of its affirmative action program; indicate any need for remedial action; (b) determine the degree to which US Coatings' objectives have been attained; (c) determine whether known protected veterans have had the opportunity to participate in all

company sponsored educational, training, recreational and social activities; (d) measure US Coatings' compliance with the affirmative action program's specific obligations; and (e) document the actions taken to comply with the obligations of 41 CFR §60-300.44(h)(1)(i) through (v).

Remedy: US Coatings must design and implement an audit and reporting system, as required by 41 CFR 60-300.44(h)(1). Specifically, US Coatings 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 US Coatings' objectives have been attained; determines whether known protected veterans have had the opportunity to participate in all company sponsored educational, training, recreational and social activities; measures US Coatings' 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, 2020 to June 30, 2021, US Coatings failed to design and implement an audit and reporting system, as required by 41 CFR 60-741.44(h)(1). Specifically, US Coatings failed to (a) measure the effectiveness of its affirmative action program; indicate any need for remedial action; (b) determine the degree to which US Coatings' objectives have been attained; (c) determine whether known individuals with disabilities had the opportunity to participate in all company sponsored educational, training, recreational and social activities; (d) measure US Coatings' compliance with the affirmative action program's specific obligations; and (e) document the actions taken to comply with the obligations of 41 CFR §60-741.44(h)(1)(i) through (v).

Remedy: US Coatings must design and implement an audit and reporting system, as required by 41 CFR 60-741.44(h)(1). Specifically, US Coatings 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 US Coatings objectives have been attained; determines whether known individuals with disabilities have had the opportunity to participate in all company sponsored educational, training, recreational and social activities; measures US Coatings' compliance with the affirmative action program's specific obligations; and documents the actions taken to comply with these obligations.

9. **Violation:** US Coatings' VEVRAA's AAP failed to include all the required contents, as required by 41 CFR 60-300.44. Specifically, US Coatings did not provide the results of the evaluation of the effectiveness of outreach and recruitment efforts that were intended to identify and recruit qualified protected veterans as described in 41 CFR 300.44 (f).

Remedy: US Coatings must include the external EEO policy dissemination, outreach, and positive recruitment element described in 41 CFR 60-300.44 (f) in its VEVRAA AAP, as required by 41 CFR 60-300.44.

10. **Violation:** US Coatings' VEVRAA AAP failed to include all the required contents, as required by 41 CFR 60-300.44. Specifically, US Coatings' AAP failed to include the data collection analysis element described in 41 CFR 60-300.44(k).

Remedy: US Coatings must include the data collection analysis element described in 41 CFR 60-300.44(k) in its VEVRAA AAP, as required by 41 CFR 60-300.44

11. **Violation:** US Coatings' Section 503 AAP failed to include all the required contents, as required by 41 CFR 60-741.44. Specifically, US Coatings did not provide the 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).

Remedy: US Coatings must include the external EEO policy dissemination, outreach, and positive recruitment element described in 41 CFR 60-741.44(f) in its Section 503 AAP, as required by 41 CFR 60-741.44.

12. **Violation:** US Coatings' Section 503 AAP failed to include all the required contents, as required by 41 CFR 60-741.44. Specifically, US Coatings' AAP failed to include the data collection analysis element described in 41 CFR 60-741.44(k).

Remedy: US Coatings must include the data collection analysis described in 41 CFR 60-741.44(k) in its Section 503 AAP, as required by 41 CFR 60-741.44

IV. OFCCP Monitoring Period

1. **Recordkeeping.** US Coatings 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. US Coatings will retain the records until this Agreement expires or for the time period consistent with regulatory requirements, whichever is later.
2. **Progress Reports**

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

Progress Report 1: Due on March 31, 2023, covering the period of March 1, 2022 through February 28, 2023.

Progress Report 2: Due on March 31, 2024, covering the period of March 1, 2023 through February 29, 2024.

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The information due in each report is as follows:

- a) Documentation of the total number of applicants and hires and the breakdown by gender of applicants and hires and the breakdown of race and ethnicity of applicants and hires for positions during the covered timeframe including temporary, part-time, and seasonal workers who were referred to and/or assigned to work at US Coatings by a staffing firm or employment agency.
- b) Adverse impact analyses by job group with the requirements of 41 CFR 60-3.4 and 3.15 at least on a semi-annual basis. If US Coatings finds statistically significant disparities, US Coatings will investigate the cause of the disparities and take appropriate action, such as providing refresher training or making additional changes to the hiring process. US Coating will implement remedies to correct any statistically significant disparities in hiring and report to OFCCP on actions taken.
- c) Documentation that US Coatings annually reviewed its outreach and recruitment efforts for veterans, assessed their effectiveness, and documented this review. Specifically, confirmation that US Coatings documents each evaluation, including at a minimum the criteria it used to evaluate the effectiveness of each effort and the conclusion as to whether each effort was effective.
- d) Documentation that US Coatings annually reviewed its outreach and recruitment efforts for individuals with disabilities, assessed their effectiveness, and documented this review. Specifically, confirmation that US Coatings documents each evaluation, including at a minimum the criteria it used to evaluate the effectiveness of each effort and the conclusion as to whether each effort was effective.
- e) Documentation that US Coatings listed all employment openings, as defined by 41 CFR 60-300.5(a) 2-6 and the revised regulations implementing the Vietnam Era Veterans Readjustment Assistance Act of 1974, as amended.
- f) Evidence that US Coatings reviewed all physical and mental qualification standards.
- g) Evidence that US Coatings has designed and implemented 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 US Coatings objectives have been attained; determines whether known individuals with disabilities and veterans have had the opportunity to participate in all company sponsored educational, training, recreational and social activities; measures US Coatings' compliance with the affirmative action program's specific obligations; and documents the actions taken to comply with these obligations.

US Coatings will submit reports to (b) (6), (b) (7)(C), Compliance Officer, 100 West Capitol Street-Suite 762, Jackson, MS 39269 and (b) (6), (b) (7)(C)@dol.gov. US Coatings 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 US Coatings provides in accordance with this Agreement are trade secrets, commercial, and/or financial in nature, and customarily kept private or closely held, and the US Coatings believes should remain confidential under Exemption 4 of the Freedom of Information Act (FOIA) in the event of a FOIA request, US Coatings will provide such reports to OFCCP marked as “Confidential”. In the event of a FOIA request, OFCCP will promptly notify US Coatings of the FOIA request and provide US Coatings 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 US Coatings’s final progress report as set forth in Section II, Paragraph 9 above. If OFCCP fails to notify US Coatings in writing within sixty (60) days of the date of the final progress report that US Coatings 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 US Coatings within the allotted time that it has not fulfilled all of its obligations, this Agreement is automatically extended until the date that OFCCP determines US Coatings has met all of its obligations under the Agreement.

V. SIGNATURES

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

This Agreement is hereby executed by and between the Office of Federal Contract Compliance Programs and US Coatings, LLC, 260 Baldwin Road, Satsuma, Alabama 36572.

DATE: Sept 9, 2022

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

Cecil Williams
President
US Coatings, LLC
260 Baldwin Road
Satsuma, AL 36572

DATE: _____

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

Compliance Officer-Jackson
Office of Federal Contract
Compliance Programs

DATE: 09/09/22

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

for Katie Course
Assistant District Director-Jackson
Office of Federal Contract Compliance
Programs

DATE: 09/09/22

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

Christopher D. Williams
District Director-Birmingham
Office of Federal Contract
Compliance Programs