

Conciliation Agreement
Between the
U.S. Department of Labor Office of Federal Contract Compliance Programs
and
VCA Hollywood Animal Hospital 100

I. Preliminary Statement

The Office of Federal Contract Compliance Programs (OFCCP) evaluated VCA Hollywood Animal Hospital 100 (VCA) located at 2864 Hollywood Blvd, Hollywood, FL 33020, beginning on September 28, 2021. OFCCP found that VCA failed to comply with Executive Order 11246, as amended (E.O. 11246 or the Executive Order), 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 C.F.R., Sections 60-1, 60-2, 60-300 and 60-741.

OFCCP notified VCA of the specific violations and the corrective actions required in a Notice of Violation (NOV) issued on December 7, 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 VCA 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 VCA'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 VCA 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 VCA'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. VCA 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 VCA 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. VCA 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 VCA submits its final progress report required in Section IV, below, unless OFCCP notifies VCA in writing before the expiration date that VCA 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 VCA has met all of its obligations under the Agreement.
10. If VCA violates this Agreement:
 - a. The procedures at 41 C.F.R. § 60-1.34, 41 C.F.R. § 60-300.63, and 41 C.F.R. § 60-741.63 will govern:
 - i. OFCCP will send VCA a written notice stating the alleged violations and summarizing any supporting evidence.
 - ii. VCA 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 VCA 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 VCA, 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. VCA 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.
- 11. VCA 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:** During the period January 1, 2021 through December 31, 2021, VCA failed to collect, maintain and have available records showing the gender, race, and ethnicity of each applicant or Internet Applicant as required by 41 C.F.R. §§ 60-1.12(a) and (c). Specifically, VCA failed to collect and maintain the gender, race, and ethnicity of each applicant or Internet Applicant and failed to keep records for a period of not less than two years from the date of the making of the record or the personnel action, which ever occurred later.

REMEDY: VCA will collect, maintain and have available records showing the gender, race, and ethnicity of each applicant or Internet Applicant as defined in 41 C.F.R. § 60-1.3, as required by 41 C.F.R. §§ 60-1.12(a) and (c).

- 2. **VIOLATION:** During the period January 1, 2021 through December 31, 2021, VCA failed to develop and implement an internal audit and reporting system that periodically measures the effectiveness of its total affirmative action program, as required by 41 C.F.R. § 60- 2.17(d)(1) through (4). Specifically, VCA failed to collect gender, race, and ethnicity of each applicant or Internet Applicant which limited their ability to ensure that nondiscriminatory policies were carried out.

REMEDY: VCA will develop and implement an internal audit and reporting system that periodically measures the effectiveness of its total affirmative action program, as required by 41 C.F.R. § 60-2.17(d)(1) through (4). Specifically, VCA will: (1) Monitor records of all personnel activity, including referrals, placements, transfers, promotions, terminations, and compensation, at all levels to ensure the nondiscriminatory policy is carried out; (2) Require internal reporting on a scheduled basis as to the degree to which equal employment opportunity and organizational objectives are attained; (3) Review report results with all levels of management; and (4) Advise top management of program effectiveness and submit recommendations to improve unsatisfactory performance.

3. **VIOLATION:** During the period January 1, 2021 through December 31, 2021, VCA failed to invite its employees and applicants for employment to voluntarily self-identify as a protected veteran, as required by 41 C.F.R. § 60-300.42.

REMEDY: VCA will invite applicants to inform it whether the applicant believes that he or she is a veteran protected by VEVRAA, as required by 41 C.F.R. § 60-300.42. More specifically, VCA will invite applicants for employment, prior to an offer of employment, to voluntarily identify as a protected veteran. Additionally, VCA will invite applicants for employment, after an offer of employment, but before applicants begin their job duties, to voluntarily inform it whether the applicant believes that he or she is a protected veteran. VCA may invite the applicant to also indicate if he or she belongs to one or more of the specific categories of protected veterans, as defined by 41 C.F.R. § 60-300.2(q). All invitations to self-identify as a protected veteran must comply with the requirements of 41 C.F.R. § 60-300.42(c). VCA will 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 C.F.R. § 60-300.42(e).

4. **VIOLATION:** During the period January 1, 2021 through December 31, 2021, VCA failed to review its personnel processes and make any necessary modifications to ensure that the obligations were carried out, as required by 41 C.F.R. § 60-300.44(b).

REMEDY: VCA will periodically review its personnel processes, make any necessary modifications, and design procedures that facilitate a review of the implementation of this requirement. A description of the review and any necessary modifications to personnel processes or development of new processes will be included in its VEVRAA AAP, as required by 41 C.F.R. § 60-300.44(b).

5. **VIOLATION:** During the period January 1, 2021 through December 31, 2021, VCA failed to undertake appropriate outreach and positive recruitment activities that were reasonably designed to effectively recruit qualified protected veterans, document these activities, assess their effectiveness, and document its review, in violation of 41 C.F.R. § 60-300.44(f). Specifically, VCA stated that no specific outreach and recruitment of qualified protected veterans had been undertaken during the review period.

REMEDY: VCA will undertake appropriate outreach and positive recruitment activities that are reasonably designed to effectively recruit qualified protected veterans, document

these activities, assess their effectiveness, and document its review, as required by 41 C.F.R. § 60-300.44(f).

6. **VIOLATION:** During the period January 1, 2021 through December 31, 2021, VCA failed to design and implement an audit and reporting system, as required by 41 C.F.R. § 60- 300.44(h)(1). Specifically, VCA failed to measure the effectiveness of its affirmative action program; indicate any need for remedial action; determine the degree to which VCA’s objectives have been attained; measure VCA’s compliance with the affirmative action program’s specific obligations; and document the actions taken to comply with the obligations of 41 C.F.R. § 60-300.44(h)(1)(i) through (v).

REMEDY: VCA will design and implement an audit and reporting system, as required by 41 C.F.R. § 60-300.44(h)(1). Specifically, VCA will 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 VCA’s objectives have been attained; measures VCA’s compliance with the affirmative action program’s specific obligations; and documents the actions taken to comply with these obligations.

7. **VIOLATION:** During the period January 1, 2021 through December 31, 2021, VCA failed to document and maintain the required data pertaining to applicants and hires, in violation of 41 C.F.R. § 60-300.44(k).

REMEDY: VCA will document the following computations or comparisons pertaining to applicants and hires, on an annual basis, and will maintain this data for three (3) years, as required by 41 C.F.R. § 60-300.44(k):

- The number of applicants who self-identified as protected veterans pursuant to 41 C.F.R. § 60-300.42(a), or who are otherwise known as protected veterans;
- The total number of job openings and total number of jobs filled;
- The total number of applicants for all jobs;
- The number of veterans hired; and
- The total number of applicants hired.

8. **VIOLATION:** During the period January 1, 2021 through December 31, 2021, VCA 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 C.F.R. § 60-741.42. Specifically, VCA failed to conduct the initial survey of its employees; failed to invite applicants to self-identify as an individual with a disability at the pre and post-offer stages; and failed to use an approved form.

REMEDY: VCA will invite both its applicants for employment, and its employees, to voluntarily self-identify as an individual with a disability, in accordance with 41 C.F.R. § 60-741.42. All invitations to self-identify will be made using the OMB-approved form for this purpose (available on the OFCCP website). More specifically, VCA will 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 C.F.R. § 60-741.2(g)(1)(i) or (ii). VCA will 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, VCA will 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, VCA shall remind its employees that they may voluntarily update their disability-related self-identification information at any time. VCA will 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 C.F.R. § 60-741.42(e).

- 9. VIOLATION:** During the period January 1, 2021 through December 31, 2021, VCA failed to review its personnel processes and make any necessary modifications to ensure that the obligations were carried out, as required by 41 C.F.R. § 60-741.44(b).

REMEDY: VCA will periodically review its personnel processes, make any necessary modifications, and design procedures that facilitate a review of the implementation of this requirement. A description of the review and any necessary modifications to personnel processes or development of new processes shall be included in its Section 503 AAP, as required by 41 C.F.R. § 60-741.44(b).

- 10. VIOLATION:** During the period January 1, 2021 through December 31, 2021, VCA 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 C.F.R. § 60-741.44(f). Specifically, VCA stated that no specific outreach and recruitment of qualified individuals with disabilities had been undertaken during the review period.

REMEDY: VCA will undertake appropriate outreach and positive recruitment activities that are reasonably designed to effectively recruit qualified individuals with disabilities, document these activities, assess their effectiveness, and document its review, as required by 41 C.F.R. § 60-741.44(f).

- 11. VIOLATION:** During the period January 1, 2021 through December 31, 2021, VCA failed to design and implement an audit and reporting system, as required by 41 C.F.R. § 60-741.44(h)(1). Specifically, VCA failed to measure the effectiveness of its affirmative action program; indicate any need for remedial action; determine the degree to which VCA's objectives have been attained; measure VCA's compliance with the affirmative action program's specific obligations; and document the actions taken to comply with the obligations of 41 C.F.R. § 60-741.44(h)(1)(i) through (v).

REMEDY: VCA will design and implement an audit and reporting system, as required by 41 C.F.R. § 60-741.44(h)(1). Specifically, VCA will 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 VCA's objectives

have been attained; measures VCA’s compliance with the affirmative action program’s specific obligations; and documents the actions taken to comply with these obligations.

12. VIOLATION: During the period January 1, 2021 through December 31, 2021, VCA failed to document and maintain the required data pertaining to applicants and hires, in violation of 41 C.F.R. § 60-741.44(k).

REMEDY: VCA will document the following computations or comparisons pertaining to applicants and hires, on an annual basis, and will maintain this data for three (3) years, as required by 41 C.F.R. § 60-741.44(k):

- The number of applicants who self-identified as individuals with disabilities, or who are otherwise known to be individuals with disabilities;
- The total number of job openings and total number of jobs filled;
- The total number of applicants for all jobs;
- The number of individuals with disabilities hired; and
- The total number of applicants hired.

IV. OFCCP Monitoring Period

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

2. **VCA Reports.**

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

<u>REPORT DUE DATE</u>	<u>REPORTING PERIOD</u>
Report 1: September 1, 2023	July 1, 2022 through June 30, 2023

- a. Pursuant to Remedy 1: The total number of applicants and hires for each AAP job group with a breakdown by applicable gender, race and/or ethnic group of applicants and hires as defined in 41 C.F.R. § 60-1.3, as required by 41 C.F.R. §§ 60-1.12 (a) and (c).
- b. Pursuant to Remedy 2: Evidence that VCA developed and implemented an internal audit and reporting system that periodically measures the effectiveness of its total AAP as required by 41 C.F.R. § 60-2.17(d)(1) through (4).
- c. Pursuant to Remedies 3 and 8: Documentation that VCA invited applicants and employees during the reporting period to voluntarily self-identify as protected veterans, and as individuals with disabilities, as required by 41 C.F.R. §§ 60-300.42

and 60-741.42. All invitations to self-identify, as required by 60-741.42 will be made using the OMB-approved form published on the OFCCP website.

- d. Pursuant to Remedies 4 and 9: Documentation of VCA's most recent assessment of personnel processes, as required by 41 C.F.R. §§ 60-300.44(b) and 60-741.44(b), including a description of the assessment and any actions taken or changes made as a result of the assessment.
- e. Pursuant to Remedies 5 and 10: Documentation (i.e., copies of letters, memos, record of telephone calls, record of meetings, emails, etc.) that VCA has undertaken appropriate outreach and positive recruitment activities for protected veterans and individuals with disabilities, such as those described at 41 C.F.R. §§ 60-300.44(f)(2) and 60-741.44(f)(2). VCA will also provide its annual assessment of the effectiveness of each external outreach and recruitment effort and the assessment in totality of outreach and positive recruitment efforts, as described at 41 C.F.R. §§ 60-300.44(f)(3) and 60-741.44(f)(3).
- f. Pursuant to Remedies 6 and 11: Documentation of VCA's audit and reporting systems for its VEVRAA and Section 503 AAP that includes the actions taken to comply with the obligations described at 41 C.F.R. §§ 60-300.44(h)(1)(i) through (v) and 60-741.44(h)(1)(i) through (v).
- g. Pursuant to Remedies 7 and 12: Documentation of VCA's computations or comparisons pertaining to applicants and hires required by 41 C.F.R. §§ 60-300.44(k) and 60-741.44(k):
 - i. The number of applicants who self-identified as protected veterans, or who are otherwise known to be protected veterans;
 - ii. The number of applicants who self-identified as individuals with disabilities, or who are otherwise known to be individuals with disabilities;
 - iii. The total number of job openings and total number of jobs filled;
 - iv. The total number of applicants for all jobs;
 - v. The number of protected veteran applicants hired;
 - vi. The number of individuals with disabilities hired; and
 - vii. The total number of applicants hired.

VCA will submit the report to E. Michelle Hernandez, District Director, Miami District Office, 909 SE 1st Avenue, Room 722 Miami, FL 33131 or at [\(b\) \(6\), \(b\) \(7\)\(C\)@dol.gov](mailto:(b) (6), (b) (7)(C)@dol.gov). VCA 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 VCA provides in accordance with this Agreement are trade secrets, commercial, and/or financial in nature, and customarily kept private or closely-held, and the VCA believes should remain confidential under Exemption 4 of the Freedom of Information Act (FOIA) in the event of a FOIA request, VCA will provide such reports to OFCCP marked as "Confidential". In the event of a FOIA request, OFCCP will promptly notify VCA of

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

V. SIGNATURES

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

This Agreement is hereby executed by and between the Office of Federal Contract Compliance Programs and VCA Hollywood Animal Hospital 100, 2864 Hollywood Blvd, Hollywood, FL 33020.

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

Gina Lindell
Vice President & General Counsel
VCA Hollywood Animal Hospital 100
2864 Hollywood Blvd.
Hollywood, FL 33020

DATE: 12/13/22

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

E. Michelle Hernandez
District Director
Office of Federal Contract
Compliance Programs
Miami Office

DATE: 12/14/2022