

Conciliation Agreement  
Between the  
U.S. Department of Labor Office of Federal Contract Compliance Programs  
and  
Manhattan Construction Company

**I. Preliminary Statement**

The Office of Federal Contract Compliance Programs (OFCCP) evaluated Manhattan Construction Company (Manhattan) federal construction projects located in the Washington, DC Non-Standard Metropolitan Statistical Area (Non-SMSA), beginning on March 21, 2022. OFCCP found that Manhattan 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 the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, 38 U.S.C. § 4212 (VEVRAA) and their respective implementing regulations at 41 CFR Chapter 60.

OFCCP notified Manhattan of the specific violations and the corrective actions required in a Notice of Violation (NOV) issued on December 13, 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 Manhattan 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 Manhattan'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 VEVRAA based on the violations alleged in the NOV. However, OFCCP retains the right to initiate legal proceedings to enforce this Agreement if Manhattan 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 Manhattan'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. Manhattan 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 Manhattan 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. Manhattan 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 Director of Regional Operations (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 Manhattan submits its final progress report required in Section IV, below, unless OFCCP notifies Manhattan in writing before the expiration date that Manhattan 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 Manhattan has met all of its obligations under the Agreement.
10. If Manhattan 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 Manhattan a written notice stating the alleged violation(s) and summarizing any supporting evidence.
    - ii. Manhattan 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 Manhattan 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 Manhattan, 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. Manhattan 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. Manhattan 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 OFCCP.
- 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 March 1, 2021 through March 1, 2022, Manhattan failed to disseminate the "Pay Transparency Nondiscrimination Provision," using the language prescribed by the Director of OFCCP, to employees and applicants, as required by 41 CFR 60-1.35(c). Specifically, Manhattan failed to incorporate the nondiscrimination provision into existing employee manuals or handbooks; and post the nondiscrimination provision electronically or by posting a copy of the provision in conspicuous places available for employees and applicants.

**Remedy:** On September 20, 2022, Manhattan submitted photographic evidence to confirm compliance with the posting obligation as defined in 41 CFR 60-1.35(c). Manhattan will conduct a review of its commitment to the Pay Transparency Nondiscrimination Provision, as required by 41 CFR 60-1.35(c), by confirming that it incorporated the nondiscrimination provisions of 41 CFR 60-1.4(a)(3) into its employee

manuals or handbooks and that it posted the nondiscrimination provision electronically or by posting a copy of the provision in conspicuous places available for employees and applicants. Additionally, Manhattan will train all employees on OFCCP's Pay Transparency Nondiscrimination Provision.

2. **Violation:** During the period of March 1, 2021 through March 1, 2022, Manhattan failed to post in conspicuous places the notice informing applicants and employees of their EEO rights, as required by 41 CFR 60-1.4(a)(1).

**Remedy:** On September 20, 2022, Manhattan submitted photographic evidence that they have fulfilled the posting obligation as defined in 41 CFR 60-1.4(a)(1).

3. **Violation:** During the period of March 1, 2021 through March 1, 2022, Manhattan failed to state in all solicitations or advertisements for employees placed by or on behalf of the contractor, that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin, as required by 41 CFR 60-1.4(a)(2).

**Remedy:** Manhattan will state in all solicitations or advertisements for employees placed by or on behalf of the contractor, that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin, as required by 41 CFR 60-1.4(a)(2).

4. **Violation:** During the period of March 1, 2021 through March 1, 2022, Manhattan failed to establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when Manhattan had employment opportunities available, and maintain a record of the organizations' responses, as required by 41 CFR 60-4.3(a)7.b.

**Remedy:** Manhattan will establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when Manhattan has employment opportunities available, and maintain a record of the organizations' responses, as required by 41 CFR 60-4.3(a)7.b. Examples of minority and female recruitment sources include, but are not limited to:

- **National Governors Association**  
Address: 444 North Capitol Street  
Washington, DC 20001  
Website: <http://www.nga.org/cms/home.html>  
Contact: (b) (6), (b) (7)(C)  
Contact Email: (b) (6), (b) (7)(C)@nga.org  
Contact Phone Number: (b) (6), (b) (7)(C)
- **The Partnership for Working Families**



Address: 1825 K Street NW Suite 210  
Washington, DC 20006  
Website: <http://www.forworkingfamilies.org/>  
Contact: (b) (6), (b) (7)(C)  
Contact Email: (b) (6), (b) (7)(C)@forworkingfamilies.org  
Contact Phone Number: (b) (6), (b) (7)(C)

5. **Violation:** During the period of March 1, 2021 through March 1, 2022, Manhattan failed to develop on-the-job training opportunities and/or participate in training programs for the area, which expressly include minorities and women, including upgrading programs apprenticeship and trainee programs relevant to Manhattan's employment needs, especially those programs funded or approved by the Department of Labor, as required by 41 C.F.R. 60-4.3(a)7.e.

**Remedy:** Manhattan will develop on-the-job training opportunities and/or participate in training programs for the area, which expressly include minorities and women, including upgrading apprenticeship programs and trainee programs relevant to Manhattan employment needs, especially those programs funded or approved by the Department of Labor, as required by 41 C.F.R. 60-4.3(a)7.e. Manhattan shall provide notice of these programs to the sources compiled under 41 C.F.R. 60-4.3(a)7b. Examples of apprenticeship and trainee programs include, but are not limited to:

- **Baltimore Cement Masons JAC**  
1517 Kenilworth Avenue, N.E.  
Washington, DC 20019  
Contact: (b) (6), (b) (7)(C)  
Phone: (b) (6), (b) (7)(C)  
(b) (6), (b) (7)(C)@aol.com
- **Finishing Trades Institute of Maryland, Virginia, D.C., and Vicinities**  
4700 Boston Way  
Lanham, MD 20706  
Contact: (b) (6), (b) (7)(C)  
Phone: (b) (6), (b) (7)(C)  
(b) (6), (b) (7)(C)@ftimdvmc.edu
- **Office of Facilities Management and Reliability**  
600 Maryland Avenue SW  
Washington, DC 20024  
Contact: (b) (6), (b) (7)(C)  
Phone: (b) (6), (b) (7)(C)  
(b) (6), (b) (7)(C)@si.edu

6. **Violation:** During the period of March 1, 2021 through March 1, 2022, Manhattan failed to direct its recruitment efforts, both oral and written, to minority, female and community

organizations, to schools with minority and female students, and to minority and female recruitment and training organizations serving Manhattan's recruitment area and employment needs, as required by 41 C.F. R. 60- 4.3(a)7.i.

**Remedy:** Manhattan will direct their recruitment efforts, both oral and written, to minority, female, and community organizations, to schools with minority and female students, and to minority and female recruitment and training organizations serving Manhattan recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, Manhattan shall send written notification to organizations such as prior mentioned, describing the openings, screening procedures, and tests to be used in the selection process as required by 41 C.F.R. 60-4.3(a)7.i.

7. **Violation:** During the period of March 1, 2021 through March 1, 2022, Manhattan failed to conduct, at least annually, an inventory and evaluation at least of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities, as required by 41 C.F.R. 60-4.3(a)7.i.

**Remedy:** Manhattan will conduct, at least annually, an inventory and evaluation at least of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities, as required by 41 C.F.R 60-4.3(a)7.i.

8. **Violation:** During the period of March 1, 2021 through March 1, 2022, Manhattan failed to include (or ensure the inclusion of), in all solicitations and advertisements for employees, a statement that all qualified applicants will be considered for employment and will not be discriminated against based on their protected veteran status, in violation of 41 CFR 60-300.5(a)(12).

**Remedy:** Manhattan will include (or ensure the inclusion of), in all solicitations and advertisements for employees, a statement that all qualified applicants will be considered for employment and will not be discriminated against on the basis of their protected veteran status, in accordance with 41 CFR 60-300.5(a)12.

9. **Violation:** During the period of March 1, 2021 through March 1, 2022, Manhattan failed to state in all solicitations and advertisements for employees placed on behalf of Manhattan Construction Company that all qualified applicants will receive consideration for employment and will not be discriminated against on the basis of disability, as required by 41 CFR 60-741.5(a)7.

**Remedy:** Manhattan will state in all solicitations and advertisements for employees placed on behalf of Manhattan that all qualified applicants will receive consideration for employment and will not be discriminated against on the basis of disability, as required by 41 CFR 60-741.5(a)7.



#### IV. OFCCP Monitoring Period

1. **Recordkeeping.** Manhattan 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. Manhattan will retain the records until this Agreement expires or for the time period consistent with regulatory requirements, whichever is later.
2. **Report.** Manhattan agrees to furnish OFCCP with the following report during the Monitoring Period. The report will contain the documentation specified according to the dates scheduled:
  - a. Progress Report 1: Due on December 30, 2023, covering the period of December 1, 2022, through November 30, 2023.
    1. Documentation that OFCCP's Pay Transparency Non-Discrimination Provision has been incorporated into existing employee manuals and/or handbooks and documentation that Manhattan provided EEO training to all personnel with a focus on the Pay Transparency Nondiscrimination Provision. Documentation of the latter will include but is not limited to; agenda (subject matter discussed), list of attendees (name and job title), date conducted, and materials used (i.e., PowerPoint presentation, or reference materials distributed);
    2. Documentation that Manhattan stated in all solicitations or advertisements for employees placed by or on behalf of Manhattan, that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, veteran, or disability status;
    3. A current list of minority and female recruitment sources and outreach to those sources for job openings in the Washington, DC Non-Standard Metropolitan Statistical Area (SMSA);
    4. Documentation that Manhattan developed on-the-job training opportunities and/or participated in training programs for the area, which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to Manhattan's employment needs;
    5. A current list of Manhattan's recruitment efforts, both oral and written, to minority, female, and community organizations, to schools with minority and female students, and to minority and female recruitment and training

organizations serving Manhattan's recruitment area and employment needs;  
and

6. Documentation that Manhattan conducts, at least annually, an inventory and evaluation at least of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.

Manhattan will submit reports to

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

Compliance Officer

U.S. Department of Labor

Office of Federal Contract Compliance Programs

2 Hopkins Plaza, Suite 600

Baltimore, MD 21201

(b) (6), (b) (7)(C)@dol.gov

Manhattan 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 Manhattan provides in accordance with this Agreement are trade secrets, commercial, and/or financial in nature, and customarily kept private or closely held, and Manhattan believes should remain confidential under Exemption 4 of the Freedom of Information Act (FOIA) in the event of a FOIA request, Manhattan will provide such reports to OFCCP marked as "Confidential". In the event of a FOIA request, OFCCP will promptly notify Manhattan of the FOIA request and provide Manhattan 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 Manhattan's final progress report as set forth in Section II, Paragraph 9 above. If OFCCP fails to notify Manhattan in writing within sixty (60) days of the date of the final progress report that Manhattan 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 Manhattan within the allotted time that it has not fulfilled all of its obligations, this Agreement is automatically extended until the date that OFCCP determines Manhattan has met all of its obligations under the Agreement.

## V. SIGNATURES

The person signing this Agreement on behalf of Manhattan Construction Company personally warrants that he or she is fully authorized to do so, that Manhattan Construction Company has



entered into this Agreement voluntarily and with full knowledge of its effect, and that execution of this Agreement is fully binding on Manhattan Construction Company.

This Agreement is hereby executed by and between the Office of Federal Contract Compliance Programs and Manhattan Construction Company, 3330 Washington Blvd., Suite 300, Arlington, VA 22201

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

John Neyhan

President

Manhattan Construction Company

3330 Washington Blvd. Suite 300

Arlington, VA 22201

DATE: 12/15/2022

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

Brooke Sensenig

Director of Regional Operations

Mid-Atlantic Regional Office

DATE: 12/19/2022

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

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

Compliance Officer

Baltimore District Office

Mid-Atlantic Region

DATE: 12/19/2022