

Conciliation Agreement
Between the
U.S. Department of Labor Office of Federal Contract Compliance Programs
and
Texas Dewatering LLC

I. Preliminary Statement

The Office of Federal Contract Compliance Programs (OFCCP) evaluated Texas Dewatering LLC (TXD) federal construction projects located in the Houston, TX Standard Metropolitan Statistical Area (SMSA) which includes the following counties: Brazoria, Fort Bend, Harris, Liberty, Montgomery, and Waller beginning on July 27, 2022. OFCCP found that TXD failed to comply with Executive Order 11246, as amended (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 60-1.4, 60-4, 60-300, and 60-741. OFCCP notified TXD of the specific violations and the remedies required in a Notice of Violation (NOV) issued on June 23, 2023.

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 TXD 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 TXD's fulfillment of all its obligations in this Agreement, OFCCP will not institute administrative or judicial enforcement proceedings under Executive Order, 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 TXD 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 TXD'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. TXD 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 TXD of its obligation to fully comply with the requirements of Executive Order, Section 503, VEVRAA, their implementing regulations, or other applicable laws requiring nondiscrimination or equal employment opportunity through affirmative action.

4. TXD 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 TXD submits its final progress report required in Section IV, below, unless OFCCP notifies TXD in writing before the expiration date that TXD 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 TXD has met all of its obligations under the Agreement.
10. If TXD 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 TXD a written notice stating the alleged violation(s) and summarizing any supporting evidence.
 - ii. The TXD 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 TXD 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 TXD, 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. TXD 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. TXD 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 of July 27, 2021 through July 27, 2022, TXD failed to state in all solicitation or advertisement for employees by or on behalf of TXD, 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: On May 18, 2023, TXD submitted job advertisements which referenced 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).

- 2. **VIOLATION:** During the period of July 27, 2021 through July 27, 2022, TXD failed to provide written notification to OFCCP within 10 working days of award of any construction subcontract in excess of \$10,000 that was made under a covered federal or federally assisted construction contract, as required by 41 CFR 60-4.2(d)3.

REMEDY: TXD will provide written notification to OFCCP within 10 working days of award of any construction subcontract in excess of \$10,000 that is made under a covered federal or federally assisted construction contract, as required by 41 CFR 60-4.2(d)3. The notification will list the name, address and telephone number of the subcontractor; employer identification number of the subcontractor; estimated dollar amount of the subcontract; estimated starting and completion dates of the subcontract; and the geographical area in which the subcontract is to be performed.

3. **VIOLATION:** During the period of July 27, 2021 through July 27, 2022, TXD failed to physically include the "Standard Federal Equal Employment Opportunity Construction Contract Specifications" and the "Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity" containing the applicable goals for minority and female participation in its construction subcontracts in excess of \$10,000, as required by 41 CFR 60-4.3(a)(2).

REMEDY: Effective immediately, TXD will physically include the "Standard Federal Equal Employment Opportunity Construction Contract Specifications" and the "Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity" containing the applicable goals for minority and female participation in its construction subcontracts and purchase orders in excess of \$10,000, as required by 41 CFR 60-4.3(a)(2).

4. **VIOLATION:** During the period of July 27, 2021 through July 27, 2022, TXD failed to maintain a work environment free of harassment, intimidation, and coercion at all sites and in all facilities at which its employees were assigned, in violation of 41 CFR 60-4.3(a)7.a. Specifically, TXD did not ensure that all foremen, superintendents, and other on-site supervisory personnel are aware of and carry out the its obligation to maintain such a working environment, with specific attention to minority or female individuals working at its sites or facilities.

REMEDY: Effective immediately, TXD will maintain a work environment free of harassment, intimidation, and coercion at all sites and in all facilities at which its employees are assigned. Specifically, TXD will provide EEO training on maintaining a work environment free of harassment, intimidation, and coercion to all supervisory personnel.

5. **VIOLATION:** During the period of July 27, 2021 through July 27, 2022, TXD 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 TXD had employment opportunities available, and maintain a record of the organizations' responses, as required by 41 CFR 60-4.3(a)7.b.

REMEDY: Effective immediately, TXD will establish and maintain a current list of minority (specifically black) and female recruitment sources, provide written notification to minority (specifically black) and female recruitment sources and to community organizations when TXD has employment opportunities available, and maintain a record of the organizations' responses, as required by 41 CFR 60-4.3(a)7.b.

6. **VIOLATION:** During the period of July 27, 2021 through July 27, 2022, TXD failed to maintain a current file of the names, addresses and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source or community organization and of what action was taken with respect to each such individual, as required by 41 CFR 60-4.3(a)7.c.

REMEDY: Effective immediately, TXD will maintain a current file of the names, addresses and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source or community organization and of what action was taken with respect to each such individual as required by 41 CFR 60-4.3(a)7.c.

7. **VIOLATION:** During the period of July 27, 2021 through July 27, 2022, TXD 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 and apprenticeship and trainee programs relevant to its employment needs, especially those programs funded or approved by the Department of Labor; and provide notice of these programs to the sources compiled under 41 CFR 60-4.3(a)7.b., as required by 41 CFR 60-4.3(a)7.e.

REMEDY: Effective immediately, TXD will develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to its employment needs, especially those programs funded or approved by the Department of Labor. TXD will provide notice of these programs to the sources compiled under 41 CFR 60-4.3(a)7.b., as required by 41 CFR 60-4.3(a)7.e.

8. **VIOLATION:** During the period of July 27, 2021 through July 27, 2022, TXD failed to disseminate its EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting TXD in meeting its EEO obligations; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed, as required by 41 CFR 60-4.3(a)7.f.

REMEDY: Effective immediately, TXD will disseminate its EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting TXD in meeting its EEO obligations; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed, as required by 41 CFR 60-4.3(a)7.f.

9. **VIOLATION:** During the period of July 27, 2021 through July 27, 2022, TXD failed to review, at least annually, its EEO policy and affirmative action obligations under the Standard Federal Equal Employment Construction Specifications with all employees having any responsibility for hiring, assignment, layoff, termination or other employment decisions including specific review of these items with onsite supervisory personnel such as Superintendents, General Foremen, etc., prior to the initiation of construction work at any job site; and make and maintain a written record identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter, as required by 41 CFR 60-4.3(a) 7.g.

REMEDY: Effective immediately, TXD will review, at least annually, its EEO policy and affirmative action obligations under the Standard Federal Equal Employment Construction Specifications with all employees having any responsibility for hiring, assignment, layoff, termination or other employment decisions including specific review of these items with onsite supervisory personnel such as Superintendents, General Foremen, etc., prior to the initiation of construction work at any job site. A written record will be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter, as required by 41 CFR 60-4.3(a) 7.g.

10. **VIOLATION:** During the period of July 27, 2021 through July 27, 2022, TXD failed to disseminate its EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing TXD's EEO policy with other contractors and subcontractors with whom TXD does or anticipates doing business, as required by 41 CFR 60-4.3(a) 7.h.

REMEDY: Effective immediately, TXD will disseminate its EEO policy externally by including it in any advertising in the news media, specifically including minority (specifically black) and female news media, and providing written notification to and discussing TXD's EEO policy with other contractors and subcontractors with whom TXD does or anticipates doing business, as required by 41 CFR 60-4.3(a) 7.h.

11. VIOLATION: During the period of July 27, 2021 through July 27, 2022, TXD 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 TXD's recruitment area and employment needs, as required by 41 CFR 60-4.3(a) 7.i.

REMEDY: Effective immediately, TXD will direct its recruitment efforts, both oral and written, to minority (specifically black), female, and community organizations, to schools with minority (specifically black) and female students and to minority (specifically black) and female recruitment and training organizations serving TXD's recruitment area and employment needs. Furthermore, TXD will ensure that, not later than one month prior to the date for the acceptance of applications for apprenticeships or other training, it sends written notification to such organizations, describing the openings, screening procedures, and tests to be used in the selection process, as required by 41 CFR 60-4.3(a)7.i.

12. VIOLATION: During the period of July 27, 2021 through July 27, 2022, TXD failed to encourage current minority and female employees to recruit other minority persons and women, and where reasonable, provide after school, summer and vacation employment to minority and female youth both on the site and in other areas of TXD's workforce, as required by 41 CFR 60-4.3(a) 7.j.

REMEDY: Effective immediately, TXD will encourage current minority (specifically black) and female employees to recruit other minority (specifically black) persons and women and, where reasonable, provide after school, summer and vacation employment to minority (specifically black) and female youth both on the site and in other areas of TXD's workforce, as required by 41 CFR 60-4.3(a) 7.j.

13. VIOLATION: During the period of July 27, 2021 through July 27, 2022, TXD 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 CFR 60-4.3(a)7.l.

REMEDY: Effective immediately, TXD 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 CFR 60-4.3(a)7.l.

14. VIOLATION: During the period of July 27, 2021 through July 27, 2022, TXD failed to document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations, as required by 41 CFR 60-4.3(a)7.o.

REMEDY: Effective immediately, TXD will document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations, as required by 41 CFR 60-4.3(a)7.o.

15. **VIOLATION:** During the period of July 27, 2021 through July 27, 2022, TXD failed to conduct a review, at least annually, of all supervisors' adherence to and performance under its EEO policies and affirmative action obligations, as required by 41 CFR 60-4.3(a)7.p.

REMEDY: Effective immediately, TXD will conduct a review, at least annually, of all supervisors' adherence to and performance under its EEO policies and affirmative action obligations, as required by 41 CFR 60-4.3(a)7.p.

16. **VIOLATION:** During the period of July 27, 2021 through July 27, 2022, TXD failed to state in all solicitations and advertisements for employees placed on behalf of TXD 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: On May 18, 2023, TXD submitted job advertisements which referenced 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.

17. **VIOLATION:** During the period of July 27, 2021 through July 27, 2022, TXD failed to 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: Effective immediately, TXD will 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.

IV. OFCCP Monitoring Period

1. **Recordkeeping.** TXD 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, personnel records, job advertisements, purchase orders, subcontracts, emails, communication logs, and any other records or data used to generate the required reports. TXD will retain the records until this Agreement expires or for the time period consistent with regulatory requirements, whichever is later.

2. **TXD Reports.**

TXD 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 February 5, 2024 covering the period of July 5, 2023 through January 5, 2024.
- b. Progress Report 2: Due on August 5, 2024 covering the period of January 6, 2024 through July 5, 2024.
 - i. For Violations 2 and 3: TXD will submit to OFCCP a copy of each notification of each award of any construction subcontracts (purchase orders) in excess of \$10,000 that were made under a covered federal or federally assisted construction contract within ten days during the reporting period. The notification will list the following.
 - Business name
 - Address
 - Telephone number
 - Employer Identification
 - Estimated contract dollar amount
 - Estimated starting and completion dates
 - Geographical area for subcontract performance

Additionally, TXD will submit a copy of each subcontract (purchase order) which will include the “Standard Federal Equal Employment Opportunity Construction Contract Specifications” and the “Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity” containing the applicable goals for minority (27.3%) and (6.9%) female participation.

- ii. For Violations 4, 8, 9, and 15: TXD will submit a report detailing its efforts to disseminate its EEO policy both internally and externally. Internally, the report will indicate the review of the EEO policy with all employees and a review of the affirmative action obligations under the Standard Federal Equal Employment Construction Specifications with all management, supervisory, and administrative personnel. The report will identify the time and place of these meetings, persons attending (including signature), subject matter discussed, and any assessment results if applicable. Additionally, TXD will include the results of its review of all supervisor’s adherence to and performance under its EEO policies and affirmative action obligations and post a copy of its EEO policy at all facilities and worksites in a manner that is accessible to all employees (i.e., bulletin boards, breakrooms, and trailers).
- iii. For Violations 5 and 11: TXD will submit a list of its black and female recruitment sources, schools, and organizations including the entity name, date

of contact, representative name and title, phone number, email address, outcomes of each contact, and the specific job opportunities that were shared with each representative. TXD also submit a copy of the job posting for open positions shared with each representative.

- iv. For Violations 6: TXD will submit a list of applicants and hires which will include the following information:
 - First and Last Name
 - Address
 - Telephone number
 - Race
 - Gender
 - Application Date
 - Job Title Applied For
 - Hire Date
 - Position Hired Into
 - Name of minority or female recruitment source or community organization
 - Off-the-street applicant (Yes or No)
- v. For Violation 7: TXD will provide a copy of its formal on-the-job training plan and a list of the on-the-job training opportunities it has provided to its minority and female trade employees. This list will include the employee's name, race, gender, job title, date(s) of training, and description of training opportunity. TXD will identify any training opportunities that are funded by the Department of Labor.
- vi. For Violation 10: TXD will provide documentation that it disseminated and discussed its EEO policy to all current subcontractors and those that it anticipates doing business with.
- vii. For Violation 12 and 13: TXD will provide documentation of its written encouragement to current black and female employees to recruit other black and female persons for open positions. Additionally, TXD will submit a list of minority and female employees who were informed of promotional opportunities or the training requirements for potential promotions.
- viii. For Violation 14: TXD will submit a list of all solicitation of offers for subcontracts from minority and female construction contractors and suppliers. The list will include the business name, telephone number, address, and outcome of the solicitation.
- ix. For Violation 17: TXD will submit a copy of solicitations and advertisements for employees which will include a statement that specifically identifies "protected veterans".

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

V. SIGNATURES

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

This Agreement is hereby executed by and between the Office of Federal Contract Compliance Programs and Texas Dewatering LLC located at 4691 FM 529 Road, Bellville, TX 77418-5680.

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

Owner/Chief of Operations
Texas Dewatering LLC.
Bellville, TX

DATE: _____

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

Karen N. Hyman
Houston District Director
Southwest and Rocky Mountain Region

DATE: 7/05/2023

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

LaToya Smith
Houston Assistant District Director
Southwest and Rocky Mountain Region

DATE: 07/05/2023

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

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

Compliance Officer
Southwest and Rocky Mountain Region

DATE: 07/05/2023