

Conciliation Agreement
Between the
U.S. Department of Labor Office of Federal Contract Compliance Programs
and
Miller Trucking & Excavating Co.
OFCCP Case No. C00306530

I. Preliminary Statement

The Office of Federal Contract Compliance Programs (OFCCP) evaluated the establishment of Miller Trucking & Excavating Co. (Miller Trucking & Excavating) establishment located at 3303 John Deere Road, Silvis, IL 61282, beginning on October 27, 2022. OFCCP found that Miller Trucking & Excavating failed to comply with 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 C.F.R. Chapter 60.

OFCCP notified Miller Trucking & Excavating of the specific violations and the corrective actions required in a Notice of Violation (NOV) issued on May 18,, 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 Miller Trucking & Excavating 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 Miller Trucking & Excavating's fulfillment of all its obligations in this Agreement, OFCCP will not institute administrative or judicial enforcement proceedings under 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 Miller Trucking & Excavating 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 Miller Trucking & Excavating compliance with this Agreement. As part of this review, OFCCP may require written reports, inspect the premises, interview witnesses, and examine and copy documents. Miller Trucking & Excavating 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 Miller Trucking & Excavating 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. Miller Trucking & Excavating 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 Miller Trucking & Excavating submits its final progress report required in Section IV, below, unless OFCCP notifies Miller Trucking & Excavating in writing before the expiration date that Miller Trucking & Excavating, 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 Miller Trucking & Excavating has met all of its obligations under the Agreement.
10. If Miller Trucking & Excavating violates this Agreement:
 - a. The procedures at 41 C.F.R. 60-300.63, and 41 C.F.R. 60-741.63 will govern:
 - i. OFCCP will send Miller Trucking & Excavating a written notice stating the alleged violation(s) and summarizing any supporting evidence.
 - ii. Miller Trucking & Excavating 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 Miller Trucking & Excavating 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 Miller Trucking & Excavating, 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. Miller Trucking & Excavating may be subject to the sanctions set forth in: 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. Miller Trucking & Excavating 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 October 29, 2021, through October 28, 2022, Miller Trucking & Excavating failed to prepare and maintain an affirmative action program (AAP) for protected veterans at each establishment, in violation of 41 C.F.R. 60-300.40(b). Accordingly, Miller Trucking & Excavating failed to comply with any of its AAP obligations set forth in Subpart C of the regulations, 41 CFR 60-300.40-45.

REMEDY: Miller Trucking & Excavating will prepare and maintain an AAP for protected veterans at each establishment. The AAP shall set forth Miller Trucking & Excavating's policies and procedures in accordance with 41 C.F.R. 300.40-45. This AAP may be integrated into or kept separate from other AAPs. Miller Trucking & Excavating Co. shall review and update annually its AAP pursuant to 41 C.F.R. 60-300.40(c), and must comply with all obligations set forth in Subpart C of the regulations, 41 C.F.R. 60-300.40-45.

2. **VIOLATION:** During the period October 29, 2021, through October 28, 2022, Miller Trucking & Excavating failed to prepare and maintain an AAP for qualified individuals with disabilities at each establishment, in violation of 41 C.F.R. 60-741.40(b). Accordingly, Miller Trucking & Excavating failed to comply with any of its AAP obligations set forth in Subpart C of the regulations, 41 C.F.R. 60-741.40-45.

REMEDY: Miller Trucking & Excavating will prepare and maintain an AAP for qualified individuals with disabilities at each establishment. The AAP shall set forth Miller Trucking & Excavating's policies and procedures in accordance with 41 C.F.R. 741.40-45. This AAP may be integrated into or kept separate from other AAPs. Miller Trucking & Excavating shall review and update annually its AAP pursuant to 41 C.F.R. 60-741.40(c), and must comply with all obligations set forth in Subpart C of the regulations, 41 C.F.R. 60-741.40-45.

IV. OFCCP Monitoring Period

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

2. **Contractor Reports.**

- A. **Schedule and Instructions.** Miller Trucking & Excavating will submit the documents and progress report described below to OFCCP Chicago District Compliance Officer, (b) (6), (b) (7)(C) at (b) (6), (b) (7)(C)@dol.gov.

Miller Trucking & Excavating agrees to furnish OFCCP with the following progress report during the Monitoring Period according to the following schedule:

Progress Report will be due January 15, 2024, and cover the period from the effective date of this Agreement through December 31, 2023.

Progress Report shall include:

Pursuant to Violation 1:

Documentation that Miller Trucking & Excavating prepared and maintained an AAP for protected veterans at each establishment.

Pursuant to Violation 2:

Documentation that Miller Trucking & Excavating prepared and maintained an AAP for qualified individuals with disabilities at each establishment.

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

V. Signatures

The person signing this Agreement on behalf of Miller Trucking & Excavating Co., personally warrants that he or she is fully authorized to do so, that Miller Trucking & Excavating has entered into this Agreement voluntarily and with full knowledge of its effect, and that execution of this Agreement is fully binding on Miller Trucking & Excavating. This Agreement is hereby executed by and between the Office of Federal Contract Compliance Programs and Miller Trucking & Excavating Co., located at 3303 John Deere Road, Silvis, IL 61282.

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

Jarrod Miller
Owner

Miller Trucking & Excavating Co.

DATE: 6/27/23

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

Karen D. Wallace
District Director
OFCCP, Chicago District Office

DATE: 7/12/23

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

Compliance Officer
OFCCP, Chicago District Office

DATE: 7/12/23