

Conciliation Agreement
Between the
U.S. Department of Labor Office of Federal Contract Compliance Programs
and
D Construction, Inc.
OFCCP Case No. C00306423

I. Preliminary Statement

The Office of Federal Contract Compliance Programs (OFCCP) evaluated the D Construction, Inc. (D Construction) establishment located at 1488 South Broadway Street Coal City, IL 60416, beginning on October 28, 2022. OFCCP found that D Construction failed to comply with Executive Order 11246, as amended (E.O. 11246 or the Executive Order) and their respective implementing regulations at Code of Federal Regulations (CFR) Chapter 60. OFCCP notified D Construction of the specific violations and the corrective actions required in a Notice of Violation (NOV) issued on July 10, 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 D Construction 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 D Construction'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 D Construction 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 the compliance of D Construction with this Agreement. As part of this review, OFCCP may require written reports, inspect the premises, interview witnesses, and examine and copy documents. D Construction 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 D Construction 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. D Construction 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 D Construction submits its final progress report required in Section IV, below, unless OFCCP notifies D Construction in writing before the expiration date that D Construction 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 D Construction has met all of its obligations under the Agreement.
10. If Contractor violates this Agreement:
 - a. The procedures at 41 C.F.R. 60-1.34 will govern:
 - i. OFCCP will send D Construction a written notice stating the alleged violations and summarizing any supporting evidence.
 - ii. D Construction 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 D Construction 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 D Construction, 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. D Construction may be subject to the sanctions set forth in Section 209 of the Executive Order, 41 C.F.R. 60-1.27, and/or other appropriate relief for violating this Agreement.
- 11. D Construction 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, D Construction failed to disseminate its EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting D Construction in meeting its EEO obligations, as required by 41 C.F.R. 60-4.3(a)7.f. Also, D Construction failed to provide a copy of its current EEO Policy Statement, as required by 41 C.F.R. 60-4.3(a)7.f.

REMEDY: D Construction will disseminate its EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting D Construction in meeting its EEO obligations, as required by 41 CFR 60-4.3(a)7. f. Also, D Construction will provide a copy of its current EEO Policy Statement, as required by 41 CFR 60-4.3(a)7.f.

- 2. **VIOLATION:** During the period January 1, 2021, through December 31, 2021, D Construction failed to provide written notice within ten (10) working days to OFCCP of the 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 C.F.R. 60-4.2(d)3.

REMEDY: D Construction will provide notice within ten (10) working days to OFCCP of the 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 C.F.R. 60-4.2(d)3. D Construction will provide notification via the Notification of Construction Contract Award Portal (NCAP) at <https://www.dol.gov/agencies/ofcccp/ncap>.

IV. OFCCP Monitoring Period

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

2. **Contractor Reports.**

Schedule and Instructions. D Construction will submit the documents and progress reports described below via email to Compliance Officer (b) (6), (b) (7)(C) at (b) (6), (b) (7)(C)@dol.gov.

D Construction agrees to furnish OFCCP with the following report during the Monitoring Period according to the following schedule:

Progress Report will be due on August 1, 2024, and will cover the period from the effective date of this Agreement through July 1, 2024.

D Construction 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 D Construction provides in accordance with this Agreement are trade secrets, commercial, and/or financial in nature, and customarily kept private or closely held, and D Construction believes should remain confidential under Exemption 4 of the Freedom of Information Act (FOIA) in the event of a FOIA request, D Construction will provide such reports to OFCCP marked as "Confidential". In the event of a FOIA request, OFCCP will promptly notify D Construction of the FOIA request and provide D Construction an opportunity to object to disclosure. OFCCP will withhold disclosure of such reports to the maximum extent allowable by law.

Progress Report will include the following:

Pursuant to Violation 1:

- A copy of D Construction's current EEO Policy Statement.

- Documentation that D Construction disseminated its EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting D Construction in meeting its EEO obligations.

Pursuant to Violation 2:

- Documentation that D Construction provided notice within ten (10) working days to OFCCP of the award of any construction subcontract in excess of \$10,000 at any tier for construction work under a federal or federally assisted construction contract.
 - Documentation must 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 geographical location in which the subcontract is to be performed.
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 D Construction's final progress report as set forth in Section II, Paragraph 9 above. If OFCCP fails to notify D Construction in writing within sixty (60) days of the date of the final progress report that D Construction 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 D Construction within the allotted time that it has not fulfilled all of its obligations, this Agreement is automatically extended until the date that OFCCP determines D Construction has met all of its obligations under the Agreement.

V. SIGNATURES

The person signing this Agreement on behalf of D Construction personally warrants that he or she is fully authorized to do so, that D Construction has entered into this Agreement voluntarily and with full knowledge of its effect, and that execution of this Agreement is fully binding on D Construction. This Agreement is hereby executed by and between the Office of Federal Contract Compliance Programs and D Construction located at 1488 South Broadway Street Coal City, IL 60416.

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

Ken Sandeno
Owner
D Construction

DATE:

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

Karen D. Wallace
District Director
OFCCP, Chicago District Office

DATE: 7/19/23

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

Sarronda C. Harris
Assistant District Director
OFCCP, Chicago District Office

DATE: _____

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

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

Compliance Officer
OFCCP, Chicago District Office

DATE: _____