

Conciliation Agreement
Between the
U.S. Department of Labor Office of Federal Contract Compliance Programs And
SAP America, Inc.

I. Preliminary Statement

The Office of Federal Contract Compliance Programs (OFCCP) evaluated the SAP America, Inc., at Downers Grove, Illinois (hereinafter Contractor or SAP) establishment located at 3010 Highland Parkway Suite 900, Downers Grove, Illinois 60515, beginning on July 22, 2021. OFCCP found that Contractor failed to comply with Executive Order 11246, as amended, and its respective implementing regulations.

OFCCP notified Contractor of the specific violation(s) and the corrective action(s) required in a Notice of Violation issued on May 24, 2023.

In the interest of resolving the violations without engaging in further legal proceedings and in exchange for sufficient and valuable consideration described in this document, OFCCP and Contractor enter into this Conciliation Agreement (Agreement), and the parties agree to all the terms therein.

II. General Terms and Conditions

1. In exchange for Contractor'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 violation alleged in the NOV. However, OFCCP retains the right to initiate legal proceedings to enforce this Agreement if Contractor violates any provision of this Agreement, as set forth in Paragraph 11, below. Nothing in this Agreement precludes OFCCP from initiating enforcement proceedings based on future compliance evaluations or complaint investigations.
 2. OFCCP may review Contractor'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. Contractor 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 it requests, including those specified in this Agreement.
 3. Nothing in this Agreement relieves Contractor 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. Contractor and OFCCP agree that any release of claims required by this Agreement will only pertain to claims under E.O. 11246, Section 503, and/or VEVRAA.
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5. Contractor 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.
 6. The parties understand the terms of this Agreement and enter into it voluntarily.
 7. This Agreement, including its attachments, 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.
 8. This Agreement becomes effective on the day it is signed by the District Director.
 9. If one or more provisions of this Agreement is deemed unlawful or unenforceable, the remaining provisions will remain in full force and effect.
 10. This Agreement will expire sixty (60) days after Contractor submits its final progress report required in Section VIII, below, unless OFCCP notifies Contractor in writing before the expiration date that Contractor 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 Contractor has met all of its obligations under the Agreement.
 11. If Contractor violates this Agreement:
 - a. The procedures at 41 C.F.R. 60-1.34 will govern:
 - i. OFCCP will send Contractor a written notice stating the alleged violations and summarizing any supporting evidence.
 - ii. The Contractor 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 Contractor is unable to demonstrate that it has not violated the Agreement, or if OFCCP's 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 contractor, 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 agreed to in the Agreement.
 - b. Contractor 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.
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12. Contractor neither admits nor denies any violation of the Executive Order nor has there been an adjudication on the merits regarding any such violation.
13. OFCCP may seek enforcement of this Agreement itself and is not required to present proof of any underlying violations resolved by this Agreement.
14. 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.
15. Each party shall bear its own fees and expenses with respect to this matter.
16. 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.

III. Technical Violations and Remedies

VIOLATION: During the period July 22, 2019 through July 21, 2021, SAP failed to keep and preserve complete and accurate personnel and employment records, in violation of 41 CFR 60-1.12(a) and (e). Specifically, on November 18, 2022, OFCCP requested applicant data that included a request for contact information on applicants for employment into job group 2A Sales. SAP's February 10, 2023 submission showed it failed to preserve the name, address, email address, and telephone numbers of all applicants for positions in job group 2A Sales.

REMEDY: SAP must keep and preserve complete and accurate personnel and employment records, in accordance with 41 CFR 60-1.12(a) and (e), and will keep and preserve those records for a period of not less than two years from the date of the making of the record or the personnel action, whichever occurs later. However, if SAP has a total workforce of 150 or fewer employees or does not have a government contract of at least \$150,000, the minimum record retention period shall be one year from the making of the record or the personnel action, whichever occurs later, as permitted by 41 CFR 60-1.12(a).

IV. OFCCP Monitoring Period

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

- a. **Schedule and Instructions.** Contractor agrees to furnish OFCCP with the following reports during the Monitoring Period according to the following schedule:

First Report due date: November 15, 2023 covering the period from the effective date of the agreement to October 31, 2023.

Second and Final Report Due Date: May 15, 2023 covering the period from November 1, 2023 to April 30, 2024.

For the first report only, SAP shall submit a copy of SAP's revised global data protection and privacy policy along with a detailed narrative of the changes made that will allow it to comply with OFCCP recordkeeping regulations.

Each report shall contain profile information for all job seekers in job group 2A Sales to include:

- Name
- Address
- Email address
- Telephone number

Contractor will submit reports to Compliance Officer (b) (6), (b) (7)(C), 46 East Ohio Street, Rm 419, Indianapolis, Indiana 46204, (b) (6), (b) (7)(C)@dol.gov. Contractor 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 Contractor provides in accordance with this agreement are customarily kept private or closely held, and the Contractor believes should remain confidential under Exemption 4 of the Freedom of Information Act (FOIA) in the event of a FOIA request, Contractor will provide such reports to OFCCP marked as "Confidential". In the event of a FOIA request, OFCCP will treat any such documents received as confidential documents.

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 Contractor's final progress report as set forth in Part II, Paragraph 10 above. If OFCCP fails to notify Contractor in writing within sixty (60) days of the date of the final progress report that Contractor 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 Contractor within the allotted time that it has not fulfilled all of its obligations, this Agreement is automatically extended until the date that OFCCP determines Contractor has met all of its obligations under the Agreement.

V. SIGNATURES

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

This Agreement is hereby executed by and between the Office of Federal Contract Compliance Programs and SAP America Inc., Downers Grove, IL 60515.

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

Lloyd Adams
President, North America
SAP AMERICA, INC., (DOWNERS GROVE LOCATION)
DOWNERS GROVE, IL 60515

DATE: 7/25/23

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

David A Smith
District Director
Indianapolis

DATE: 7/28/2023
