

Conciliation Agreement
Between the
U.S. Department of Labor Office of Federal Contract Compliance Programs
and
Datapath Inc.
2205 Northmont Parkway
Suite 100
Duluth, Georgia 30096

I. Preliminary Statement

The Office of Federal Contract Compliance Programs (OFCCP) evaluated the Datapath Inc., (Datapath) establishment located at 2205 Northmont Parkway, Suite 100, Duluth, Georgia beginning on March 28, 2023. OFCCP found that Contractor failed to comply with Executive Order 11246, as amended (E.O. 11246 or the Executive Order), 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 Datapath of the specific violation(s) and the corrective action(s) required in a Notice of Violation (NOV) issued on August 11, 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 Datapath 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 Datapath fulfillment of all its obligations in this Agreement, OFCCP will not institute administrative or judicial enforcement proceedings under E.O. 11246, and VEVRAA based on the violations alleged in the NOV. However, OFCCP retains the right to initiate legal proceedings to enforce this Agreement if Datapath 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 Datapath'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. Datapath 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 Datapath 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.
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4. Datapath 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 Datapath submits its final progress report required in Section IV, below, unless OFCCP notifies Datapath in writing before the expiration date that Datapath 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 Datapath 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 and 41 C.F.R. 60-300.63, will govern:
 - i. OFCCP will send Datapath a written notice stating the alleged violation(s) and summarizing any supporting evidence.
 - ii. Datapath 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 Datapath 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 Datapath 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.

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- b. Datapath may be subject to the sanctions set forth in 209 of the Executive Order, 41 C.F.R. 60-1.27 and 41 C.F.R. 60-300.66, and/or other appropriate relief for violating this Agreement.
- 11. Datapath 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 1:** During the period January 1, 2022 through December 31, 2022, Datapath failed to immediately list all employment openings with either the state workforce agency job bank or a local employment service delivery system serving the location where the openings occurred in violation of 41 CFR 60-300.5(a)2-6.

Remedy 1: Datapath will list all employment openings as they occur with an appropriate employment service delivery system (ESDS) (either the state workforce agency job bank or a local ESDS) where the openings occur, in a manner and format that will allow the ESDS to provide priority referrals of protected veterans to Datapath as required by 41 CFR 60-300.5(a)2-6. With its initial listing, and as subsequently needed to update the information, Datapath must also advise the employment service delivery system that it is a federal contractor that desires priority referrals of protected veterans for job openings at all locations within the state, and provide the employment service delivery system with the name and address of each of its hiring locations within the state and the contact information for the contractor official responsible for hiring at each location, in accordance with 41 CFR 60-300.5(a)4. Should any of the information in the disclosures change since it was last reported to the ESDS, Datapath shall provide updated information simultaneously with its next job listing.

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2. **Violation 2:** During the review period January 1, 2022 to December 31, 2022, Datapath failed to keep and preserve complete and accurate personnel and employment records, in violation of 41 CFR 60-1.12(a) and (e); maintain and/or have available records showing where possible, the gender, race, and ethnicity of each applicant or Internet Applicant as required by 41 CFR 60-1.12 (c). Specifically, Datapath failed to report the accurate number of applicants and hires, failed to maintain applicant data for hires and non-hires or other general personnel records; and failed to keep the records for a period of not less than two years from the date of the making of the record or the personnel action, which ever occurred later.

Remedy 2: Datapath will 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 Datapath 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); maintain its current AAP and documentation of its good faith efforts, as required by 41 CFR 60-1.12(b); preserve its AAP and documentation of good faith efforts for the immediately preceding AAP year, as required by 41 CFR 60-1.12(b); maintain and/or have available records showing where possible, the gender, race and ethnicity of each applicant or Internet Applicant as defined in 41 CFR 60-1.3, as required by 41 CFR 60-1.12 (c).

IV. OFCCP Monitoring Period

1. **Recordkeeping.** Datapath agrees to retain all records relevant to the violations cited in Section III above and the reports submitted in compliance with Paragraph 2, below. Specifically, Datapath must retain complete and accurate personnel and employment records. 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. Datapath will retain the records until this Agreement expires or for the time period consistent with regulatory requirements, whichever is later.
2. **Contractor Reports.**

Datapath agrees to furnish OFCCP with the following reports during the Monitoring Period according to the dates scheduled:

 - a. Progress Report 1: Due on April 1, 2024, covering the period of September 1, 2023, through February 29, 2024.
 - b. Progress Report 2: Due on October 31, 2024, covering the period of March 1, 2024, through September 30, 2024.
- I. Documentation showing that Datapath, has listed all employment openings as they occur with an appropriate employment service delivery system (ESDS) (either the state

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workforce agency job bank or a local ESDS) where the openings occur, in a manner and format that will allow the ESDS to provide priority referrals of protected veterans to Datapath. With its initial listing, and as subsequently needed to update the information, Datapath, must also advise the employment service delivery system that it is a federal contractor that desires priority referrals of protected veterans for job openings at all locations within the state, and provide the employment service delivery system with the name and address of each of its hiring locations within the state and the contact information for the contractor official responsible for hiring at each location.

- II. Documentation showing that Datapath, has maintained and preserved complete and accurate personnel and employment records pursuant to 41 C.F.R. 60-1.12(C). Datapath must be able to identify the gender, race and ethnicity of each employee and applicant or Internet Applicant as defined in 41 C.F.R. 60.13. Data Path will provide a copy of its applicant flow log that reflects each job group or job title, the applicant flow log must consist of the total number of applicants identified by gender and by race/ethnicity. If the gender and/or race are unknown, then that information should also be included in the data submitted. This also applies to the total number of hires.
 - III. Datapath will submit reports to Compliance Officer, (b) (6), (b) (7)(C) at (b) (6), (b) (7)(C)@dol.gov or Assistant District Director, Charles Robinson at [REDACTED]@dol.gov.
 - IV. Datapath 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 Datapath Inc., provides in accordance with this Agreement are trade secrets, commercial, and/or financial in nature, and customarily kept private or closely-held, and the Datapath believes should remain confidential under Exemption 4 of the Freedom of Information Act (FOIA) in the event of a FOIA request, Datapath will provide such reports to OFCCP marked as "Confidential". In the event of a FOIA request, OFCCP will promptly notify Datapath of the FOIA request and provide Datapath 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 Datapath's final progress report as set forth in Section II, Paragraph 9 above. If OFCCP fails to notify Datapath in writing within sixty (60) days of the date of the final progress report that Datapath 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 Datapath within the allotted time that it has not fulfilled all of its obligations, this Agreement is automatically extended until the date that OFCCP determines Datapath has met all of its obligations under the Agreement.

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V. SIGNATURES

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

This Agreement is hereby executed by and between the Office of Federal Contract Compliance Programs and Datapath Inc's establishment located at 2205 Northmont Parkway, Suite 100, Duluth, Georgia 30096.

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

Signature
David McDonald
Chief Executive Officer
Datapath Inc.
2205 Northmont Parkway, Suite 100
Duluth, Georgia 30096

DATE: Sept 10, 2023

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

Signature
Sybil Shy-Demmons
District Director
Atlanta District Office
Southeast Region

DATE: September 12, 2023

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

Compliance Officer
Atlanta District Office
Southeast Region

DATE: September 12, 2023