

Conciliation Agreement
Between the
U.S. Department of Labor Office of Federal Contract Compliance Programs
And
Allan Myers VA, Inc. and Allan Myers MD, Inc.

I. Preliminary Statement

The Office of Federal Contract Compliance Programs (OFCCP) evaluated Allan Myers VA, Inc.'s and Allan Myers MD, Inc.'s (hereinafter "Allan Myers") federal, federally assisted, and non-federal construction projects located in the Norfolk – Virginia Beach – Portsmouth, VA – NC Standard Metropolitan Statistical Area (SMSA) and Wilmington, DE-NJ-MD Standard Metropolitan Statistical Area (SMSA) (hereinafter "the relevant SMSAs"), beginning on May 16, 2022, and March 25, 2022. OFCCP found that Allan Myers failed to comply with Executive Order 11246, as amended (E.O. 11246 or the Executive Order) and their respective implementing regulations at 41 C.F.R. Chapter 60.

OFCCP notified Allan Myers of the specific violations and the corrective actions required in a Notice of Violation (NOV) issued on September 20, 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 Allan Myers enter into this Conciliation Agreement (Agreement) and the parties agree to all the terms therein.

II. General Terms and Conditions

1. In exchange for Allan Myers's fulfillment of all its obligations in this Agreement, OFCCP will not institute administrative or judicial enforcement proceedings under E.O. 11246, based on the violations alleged in the NOV. However, OFCCP retains the right to initiate legal proceedings to enforce this Agreement if Allan Myers 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 Allan Myers'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. Allan Myers 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 Allan Myers of its obligation to fully comply with the requirements of E.O. 11246, Section 503 of the Rehabilitation Act of 1973, as amended (Section 503), the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended (VEVRAA), their implementing regulations, or other applicable laws requiring nondiscrimination or equal employment opportunity through affirmative action.

4. Allan Myers 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, the parties will work in good faith 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 Allan Myers submits its final progress report required in Section IV, below, unless OFCCP notifies Allan Myers in writing before the expiration date that Allan Myers 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 Allan Myers has met all of its obligations under the Agreement.
10. If Allan Myers violates this Agreement:
 - a. The procedures at 41 C.F.R. 60-1.34 will govern:
 - i. OFCCP will send Allan Myers a written notice stating the alleged violations and summarizing any supporting evidence.
 - ii. Allan Myers 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 Allan Myers 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 Allan Myers, 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. Allan Myers 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. Allan Myers denies any violation of the Executive Order, Section 503 or VEVRAA and there has been no 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 OFCCP.
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.

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 periods, Allan Myers failed to disseminate the "Pay Transparency Nondiscrimination Provision," using the language prescribed by the Director of OFCCP, to employees and applicants, as required by 41 CFR 60-1.35(c). Specifically, Allan Myers failed to incorporate the nondiscrimination provision into existing employee manuals or handbooks.

REMEDY: Allan Myers has since provided evidence to OFCCP of its compliance with 41 CFR 60-1.35(c) and will continue to disseminate the "Pay Transparency Nondiscrimination Provision," using the language prescribed by the Director of OFCCP, to employees and applicants by incorporating the nondiscrimination provision into existing employee manuals or handbooks.

2. **VIOLATION:** During the periods, Allan Myers 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 failed to 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: Allan Myers will review the company's EEO policy and affirmative action obligations with all employees detailed above and create and maintain a written record identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter. At least annually, Alan Myers' EEO policy and affirmative action obligations will be reviewed with all employees having any responsibility for hiring, assignment, layoff, termination, or other employment decisions.

- 3. VIOLATION:** During the periods, Allan Myers 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: Allan Myers 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 in excess of \$10,000, as required by 41 CFR 60-4.3(a)(2).

- 4. VIOLATION:** During the periods, Allan Myers failed to provide written notification to OFCCP within 10 working days 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 CFR 60-4.2(d)3.

REMEDY: Allan Myers has since remedied this violation and will continue to provide written notification to OFCCP within 10 working days of the 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. Allan Myers will provide notification via the Notification of Construction Contract Award Portal (NCAP) at <https://www.dol.gov/agencies/ofccp/ncap>.

- 5. VIOLATION:** During the periods, Allan Myers failed to take specific affirmative actions to ensure equal employment opportunity as required by 41 CFR 60-4.3(a) or to validate all selection requirements where there is an obligation to do as required by 41 CFR 60-4.3(a)7.c, 41 CFR 60-4.3(a)7.k and 41 CFR 60-3. Specifically, Allan Myers did not maintain an accurate and sufficient applicant tracking mechanism to be able to allow for a review and evaluation of its hiring process to ensure non-discrimination in the hiring process.

Remedy: Allan Myers will create and maintain a complete and accurate applicant

tracking system that will track all expressions of interest per job title or trade in the relevant SMSAs through all phases of the hiring and selection process. Allan Myers will also monitor all hiring and selection procedures to ensure they are nondiscriminatory per 41 CFR 60-4.3 and 41 CFR 60-3. Allan Myers will perform an adverse impact analyses and maintain records for each job to show where the total selection process for each job has an adverse impact on either sex, race and/or ethnicity. When a total selection process for a job has an adverse impact, Allan Myers must maintain and have available records showing which components of the selection step have an adverse impact as required by 41 CFR 60-4.33(a)7.c and 41 CFR 60-4.33(a)7.k.

IV. OFCCP Monitoring Period

1. **Recordkeeping.** Allan Myers agrees to retain all records relevant to the violations cited in Sections 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. Allan Myers will retain the records until this Agreement expires or for the time period consistent with regulatory requirements, whichever is later.
2. **Contractor Reports.**
 - a. Allan Myers agrees to furnish OFCCP with the following two (2) reports during the Monitoring Period. Each report will contain the documentation specified according to the following schedule:
 1. Progress Report 1: Due on October 15, 2024, covering the period October 23, 2023, through September 30, 2024.
 2. Progress Report 2: Due on October 15, 2025, covering the period October 1, 2024, through September 30, 2025.
 - b. Documentation of the following will be provided with each progress report:
 - i. Evidence that Allan Myers physically includes 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.
 - ii. Documentation of training for all employees in the relevant SMSAs having any responsibility for hiring, assignment, layoff, termination or other employment decisions, all supervisors and managers and all onsite supervisory personnel such as Superintendents, General Foremen, etc., on Allan Myers's EEO policy, the "Pay Transparency Nondiscrimination Provison," and affirmative action obligations under the Standard Federal Equal Employment Construction Specifications

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. This documentation will include:

- Date, time, and place of the training or meeting;
 - Name and job title of each person conducting the training;
 - A sign-in sheet listing the name and job title of each attendee;
 - Subject matter discussed and disposition of the subject matter; and
 - Copies of the training and/or presentation materials presented, if applicable.
- iii. Documentation that Allan Myers provided 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.
 - iv. Summaries of all applicants and hires for each job opening for the relevant SMSAs during the progress review period.
 - v. Documentation identifying all expressions of interest for each opening in the relevant SMSAs through all phases of the hiring and selection process during the progress review period.
 - vi. Copies of all internal analysis completed for for each job opening in the relevant SMSAs during the progress review period.
 - vii. Documentation that the “Pay Transparency Nondiscrimination Provision” is incorporated into Allan Myers’ most recent employee manual or handbook.
 - viii. An employee roster within the relevant SMSAs as of the effective date of the revised manual. The roster should include the employee’s name, job title, and designation as a supervisor or non-supervisor.
 - ix. Documentation to confirm that each employee with the relevant SMSAs received Allan Myers’s most recent employee manual or handbook incorporating the “Pay Transparency Nondiscrimination Provision.”

Allan Myers will submit reports to:

Edward J. Rogers, District Director
Robert N.C. Nix, Sr. Federal Bldg.
900 Market Street, Suite 311
Philadelphia, PA 19107
(b) (6), (b) (7)(C) [@dol.gov](mailto:_____@dol.gov)

Allan Myers 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 that Allan Myers provides in accordance with this agreement are trade secrets, commercial, and/or financial in nature, and customarily kept private or closely-held, and Allan Myers believes they should

remain confidential under Exemption 4 of the Freedom of Information Act (FOIA) in the event of a FOIA request, Allan Myers will provide such reports to OFCCP marked as “Confidential”. In the event of a FOIA request, OFCCP will promptly notify Allan Myers of the FOIA request and provide Allan Myers 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 Allan Myers’s final progress report as set forth in Part IV (2) above. If OFCCP fails to notify Allan Myers in writing within sixty (60) days of the date of the final progress report that Allan Myers 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 Allan Myers within the allotted time that it has not fulfilled all of its obligations, this Agreement is automatically extended until the date that OFCCP determines Allan Myers has met all of its obligations under the Agreement or OFCCP determines that Allan Myers is in violation of the Agreement, at which point the procedures at 41 C.F.R. 60-1.32 will govern.

V. SIGNATURES

The person signing this Agreement on behalf of Allan Myers personally warrants that they are fully authorized to do so, that Allan Myers has entered into this Agreement voluntarily and with full knowledge of its effect, and that execution of this Agreement is fully binding on Allan Myers.

This Agreement is hereby executed by and between the Office of Federal Contract Compliance Programs and Allan Myers Glen Allen, VA 23059 and Fallston, MD 21047.

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

Denis P. Moore
Executive Vice President
Allan Myers VA, Inc. and Allan Myers MD, Inc.
Glen Allen, VA 23059 and Fallston, MD 21047

DATE: 10/23/2023

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

Edward J. Rogers
District Director
Philadelphia

DATE: October 27, 2023

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

Tracey D. Reid
Assistant District Director
Philadelphia
Mid-Atlantic

DATE: 10/26/23

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

Compliance Officer
Philadelphia
Mid-Atlantic

DATE: October 27, 2023