

Conciliation Agreement  
Between the  
U.S. Department of Labor Office of Federal Contract Compliance Programs

And

R A Miller Industries Inc.

**I. Preliminary Statement**

The Office of Federal Contract Compliance Programs (OFCCP) evaluated RA Miller Industries Inc. (Contractor) establishment located at 14500 168<sup>th</sup> Ave, Grand Haven, MI, beginning on February 21, 2023. OFCCP found that Contractor failed to comply with Executive Order 11246, as amended (E.O. 11246 or the Executive Order), 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 CFR Sections 60-1, 60-2, 60-300, and 60-741.

OFCCP notified Contractor of the specific violations and the corrective actions required in a Notice of Violation (NOV) issued on October 17, 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 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 violations 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 10, 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 OFCCP 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 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 Contractor submits its final progress report required in Section IV, 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.
10. If Contractor violates this Agreement:
  - a. The procedures at 41 C.F.R. 60-1.34, 41 C.F.R. 60-300.63, and 41 C.F.R. 60-741.63 will govern:
    - i. OFCCP will send Contractor a written notice stating the alleged violation(s) 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 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 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, 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. Contractor 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 March 1, 2022 through February 28, 2023, Contractor failed to keep and preserve complete and accurate personnel and employment records, in violation of 41 CFR 60-1.12(a) and (e). Specifically, Contractor failed to maintain all expressions of interest submitted on third-party sites in response to the contractor's job postings for General Assembler jobs in the Operatives job group, which were reviewed for qualifications. Also, Contractor failed to keep production supervisors' hand-written interview notes of interviewees for General Assembler jobs in the Operatives job group.

**Remedy:** Contractor 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 Contractor 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).

2. **Violation:** During the period March 1, 2022 through February 28, 2023, Contractor failed to maintain and have available records showing 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).

**Remedy:** Contractor will maintain and have available records showing 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).

3. **Violation:** During the period March 1, 2022 through February 28, 2023, Contractor failed to perform in-depth analyses of its total employment process to determine whether and where impediments to equal employment opportunity exists, as required by 41 CFR 60-2.17(b). Specifically, Contractor failed to conduct in-depth analyses of its total hiring employment process for the General Assembler job position, which identified hiring disparities by gender.

**Remedy:** Contractor will perform in-depth analyses of its total employment process to determine whether and where impediments to equal employment opportunity exists, as required by 41 CFR 60-2.17(b). Specifically, Contractor will perform an in-depth analysis of its General Assembler job position hiring employment process to determine whether and where impediments to equal employment opportunity exist.

4. **Violation:** During the period March 1, 2022 through February 28, 2023, Contractor failed to invite applicants to inform it whether the applicant believes that he or she is a veteran protected by VEVRAA in violation of 41 CFR 60-300.42.

**Remedy:** Contractor shall invite applicants to inform it whether the applicant believes that he or she is a veteran protected by VEVRAA, as required by 41 CFR 60-300.42. More specifically, Contractor shall invite applicants for employment, prior to an offer of employment, to voluntarily identify as a protected veteran. Additionally, Contractor shall invite applicants for employment, after an offer of employment but before applicants begin their job duties, to voluntarily inform it whether the applicant believes that he or she is a protected veteran. Contractor may invite the applicant to also indicate if he or she belongs to one or more of the specific categories of protected veterans, as defined by 41 CFR 60-300.2(q). All invitations to self-identify as a protected veteran will comply with the requirements of 41 CFR 60-300.42(c). Contractor will keep all self-identification information confidential and maintain it in a separate data analysis file, rather than in its personnel or medical files, in accordance with 41 CFR 60-300.42(e).

5. **Violation:** During the period March 1, 2022 through February 28, 2023, Contractor failed to invite its employees and applicants for employment to voluntarily self-identify as an individual with a disability, using the OMB-approved form for this purpose, in violation of 41 CFR 60-741.42. Specifically, the contractor failed to use the OMB-approved form.

**Remedy:** Contractor shall invite both its applicants for employment, and its employees, to voluntarily self-identify as an individual with a disability, in accordance with 41 CFR 60-741.42. All invitations to self-identify will be made using the OMB-approved form for this purpose (available on the OFCCP website).

More specifically, Contractor shall invite each of its applicants for employment, prior to an offer of employment, to voluntarily inform it whether the applicant believes that he or she is an individual with a disability, as that term is defined in 41 CFR 60-741.2(g)(1)(i) or (ii). Contractor shall also invite each of its applicants for employment, after an offer of employment has been made and before the applicant begins work, to voluntarily inform it whether the applicant believes that he or she is an individual with a disability. In addition, during the first year it is subject to this requirement, Contractor shall invite each of its employees to voluntarily self-identify as an individual with a disability, and then extend this invitation again at five year intervals, thereafter. At least once during each interval, Contractor shall remind its employees that they may voluntarily update their disability-related self-identification information at any time. Contractor will keep all self-identification information confidential and maintain it in a separate data analysis file, rather than in its personnel or medical files, in accordance with 41 CFR 60-741.42(e).

#### **IV. OFCCP Monitoring Period**

**A. Recordkeeping.** Contractor agrees to retain all records relevant to the violations cited in Section III contractor must provide:

1. List of applicants for General Assembler jobs in the Operatives job group to include name, race, gender, veteran status, disability status, date of application, job title applied for, hired (Yes/No), and applicant source (in person, third-party sites, online, etc.).
2. A copy of the voluntary self-identification form used to track gender, race, and ethnicity of each applicant considered for employment.
3. A copy of the voluntary self-identification form used to offer applicants the opportunity to inform whether the applicant believes that he or she is a veteran protected by VEVRAA.
4. A copy of the voluntary self-identification form used to invite applicants to voluntarily self-identify as an individual with a disability, using the OMB-approved form.
5. Copies of interview notes and forms completed for applicants who were interviewed for General Assembler jobs in the Operatives job group, if applicable.
6. Copy of in-depth analysis of its total hiring employment process to determine whether and where impediments to equal employment opportunity exists.

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 time period consistent with regulatory requirements, whichever is later.

## **B. Contractor Reports.**

Contractor agrees to furnish OFCCP with the following reports during the monitoring period. Each report will contain the documentation specified according to the dates scheduled:

- a. Progress Report 1: Due on May 15, 2024, covering the period of November 1, 2023, through April 30, 2024. Provide documentation for all items.
- b. Progress Report 2: Due on November 15, 2024, covering the period of May 1, 2024, through October 31, 2024. Provide documentation for all items.

Contractor will submit reports via email to Compliance Officer (b) (6), (b) (7)(C) at (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 trade secrets, commercial, and/or financial in nature, and customarily kept private or closely held, and the Contractor believes they 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 promptly notify Contractor of the FOIA request and provide Contractor an opportunity to object to disclosure. OFCCP will withhold disclosure of such reports to the maximum extent allowable by law.

**C. 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 Section II, Paragraph 9 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 R A Miller Industries Inc., 14500 168<sup>th</sup> Avenue, Grand Haven, MI 49417-9454.

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

Robert Payne  
Chief Executive Officer  
R A Miller Industries Inc.  
Grand Haven, Michigan

DATE: October 26, 2023

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

David A. Smith  
Indianapolis District Director  
Midwest Region

DATE: 10/27/2023