

Conciliation Agreement
Between the
Us Department of Labor
Office of Federal Contract Compliance Programs

and

Russell Nesbitt Services, Inc.
431 Fulton Street
Wheeling, West Virginia 26003

PART I: General Provisions

1. This Agreement is between the U.S. Department of Labor, Office of Federal Contract Compliance Programs (OFCCP), and Russell Nesbitt Services, Inc., 431 Fulton Street, Wheeling, WV 26003.
2. The violations identified in this Agreement were found during a compliance evaluation of Russell Nesbitt Services, Inc. which began on November 4, 2016 and were specified in a Notice of Violation that was issued on May 29, 2019. OFCCP alleges that Russell Nesbitt Services, Inc. has violated Executive Order 11246, as amended; Section 503 of the Rehabilitation Act of 1973, as amended; the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended (38 U.S.C. 4212)] and its implementing regulations at 41 CFR Chapter 60 due to the specific violations cited in Part II below.
3. The provisions of this Agreement will become part of Russell Nesbitt Services, Inc.'s AAP. Subject of the performance by Russell Nesbitt Services, Inc. of all promises and representations contained herein and in its AAP, all named violations in regard to the compliance of Russell Nesbitt Services, Inc. with all OFCCP programs will be deemed resolved. However, Russell Nesbitt Services, Inc. is advised that the commitments contained in this Agreement do not preclude future determinations of noncompliance based on a finding that the commitments are not sufficient to achieve compliance.
4. Russell Nesbitt Services, Inc. agrees that OFCCP may review compliance with this Agreement. As part of this review, OFCCP may require written reports, inspect the premises, interview witnesses, and examine and copy documents, as may be relevant to the matter under investigation and pertinent to Russell Nesbitt Services, Inc. compliance. Russell Nesbitt Services, Inc. shall permit access to its premises during normal business hours for these purposes.
5. Nothing herein is intended to relieve Russell Nesbitt Services, Inc. from the obligation to comply with the requirements of Executive Order 11246, as amended, Section 503 of the Rehabilitation Act of 1973, as amended, and/or the Vietnam Era Veterans Readjustment Assistance Act of 1974, as amended (38 U.S.C. 4212), their implementing regulations, or any other equal employment statute or executive order or its implementing regulations.
6. Russell Nesbitt Services, Inc. agrees that there will be no retaliation of any kind against any beneficiary of this Agreement or against any person who has provided information or assistance, or who files a complaint, or who participates in any manner in any proceedings under Executive Order 11246, as amended, Section 503 of the Rehabilitation

Act of 1973, as amended, and/or the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended (38 U.S.C. 4212).

7. This Agreement will be deemed to have been accepted by the Government on the date of the signature by the Assistant District Director for OFCCP.
8. If at any time in the future, OFCCP believes that Russell Nesbitt Services, Inc. has violated any portion of this Agreement during the term of this Agreement, Russell Nesbitt Services, Inc. will be promptly notified of that fact in writing. This notification will include a statement of the facts and circumstances relied upon in forming that belief. In addition, the notification will provide Russell Nesbitt Services, Inc. with 15 calendar days from receipt of the notification to respond in writing, except where OFCCP alleges that such a delay would result in irreparable injury.

Enforcement proceedings for violation of this Agreement may be initiated at any time after the 15-day period has elapsed or sooner, if irreparable injury is alleged, without issuing a Show Cause Notice.

Where OFCCP believes that Russell Nesbitt Services, Inc. has violated this Conciliation Agreement, OFCCP may seek enforcement of this Agreement itself and shall not be required to present proof of the underlying violations resolved by this Agreement.

Liability for violation of this Agreement may subject Russell Nesbitt Services, Inc. to sanctions set forth in Section 209 of the Executive Order, 41 CFR 60-300.66 and/or 41 CFR 60-741.66 and/or other appropriate relief.

PART II: Specific Provisions

1. **VIOLATION:** During the period October 1, 2015 through September 30, 2016, Russell Nesbitt Services, Inc. failed to keep and preserve all personnel or employment records for a period of not less than two years from the date of the making of the record or the personnel action involved, whichever occurs later, as required by 41 CFR § 60-1.12(a). Specifically, Russell Nesbitt Services, Inc. failed to preserve copies of all records pertaining to applicant data management, documentation of screening methods used by recruiters and hiring managers, and interview notes, as required.

REMEDY: Russell Nesbitt Services, Inc. will keep and preserve all personnel and employment records for a period of not less than two years from the date of the making of the record or the personnel action involved, whichever occurs later, in accordance with the requirements of 41 CFR § 60-1.12(a).

2. **VIOLATION:** Russell Nesbitt Services, Inc. failed to identify, where possible, the gender, race, and ethnicity of each applicant or Internet Applicant during October 1, 2015 through September 30, 2016 as required by 41 CFR 60-1.12 (c)(ii).

REMEDY: Russell Nesbitt Services, Inc. will identify and maintain, where possible, the gender, race, and ethnicity of each applicant or Internet Applicant in accordance with the requirements of 41 CFR 60-1.12 (c)(ii).

3. VIOLATION: During the period October 1, 2015 through September 30, 2016, Russell Nesbitt Services, Inc. discriminated on the basis of pregnancy, childbirth, or related medical conditions. Specifically, Russell Nesbitt Services, Inc. required a doctor's note in order for a pregnant employee to continue working in violation of 41 CFR § 60-20.5(b)(3).

REMEDY: Russell Nesbitt Services, Inc. will cease and desist all discriminatory actions taken against pregnant employees and requiring a doctor's note for a pregnant employee to continue working in accordance with the requirement of 41 CFR § 60-20.5(b) (3).

4. VIOLATION: Russell Nesbitt Services, Inc. failed to ensure that all persons under its control do not engage in harassment, intimidation, threats, coercion, or discrimination because the individual has engaged in a compliance evaluation. Specifically, management personnel recited to OFCCP employees, the interview questions utilized during employee interviews. OFCCP determined that this occurred because a management official intimidated and coerced an employee into sharing this information in violation of 41 CFR § 60-1.32(a) and (b).

REMEDY: Russell Nesbitt Services, Inc. will ensure that all persons under its control do not engage in interference when onsite compliance evaluations are taken place in accordance with the requirements of 41 CFR § 60-1.32(b).

5. VIOLATION: During the period October 1, 2015 through September 30, 2016, Russell Nesbitt Services, Inc. failed to ensure that unwelcomed offensive remarks about a person's sex, and other verbal or physical conduct of a sexual nature, were not occurring in violation of 41 CFR § 60-20.8(a) and (b). Specifically, Russell Nesbitt Services, Inc.'s management personnel used inappropriate language when referencing an employee's sexual orientation on multiple occasions; which interfered with an individual's work performance; created an intimidating, hostile or offensive working environment; created harassment based on gender identity or transgender status; and created harassment because of sex or sex-based stereotypes.

REMEDY: Russell Nesbitt Services, Inc. will ensure that unwelcomed offensive remarks about a person's sex, and other verbal or physical conduct of a sexual nature will immediately cease and desist; will ensure that the work environment is not intimidating, hostile or offensive; and will ensure that no harassment based on gender identity or transgender status will recur in accordance with the requirement of 41 CFR § 60-20.8(a) and (b). Furthermore, Russell Nesbitt Services, Inc. will:

- 1) Foster an environment in which all employees feel safe, welcome and treated fairly, by developing and implementing procedures to ensure that employees are not harassed because of sex or sex-based stereotypes;
- 2) Provide anti-harassment training to all supervisors and management personnel at a cost of \$1,500.00; and

- 3) Establish and implement procedures for handling and resolving complaints about harassment and intimidation based on sex or sex-based stereotypes.

6. VIOLATION: During the period of October 1, 2015 through September 30, 2016 Russell Nesbitt Services, Inc. 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: Russell Nesbitt Services, Inc. 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 Russell Nesbitt Services, Inc., as required by 41 CFR § 60-300.5(a) (2-6). With its initial listing, and as subsequently needed to update the information, Russell Nesbitt Services, Inc. will 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 the requirements of 41 CFR § 60-300.5(a)(4). Should any of the information in the disclosures change since it was last reported to the ESDS, Russell Nesbitt Services, Inc. shall provide updated information simultaneously with its next job listing.

7. VIOLATION: During the period of October 1, 2015 through September 30, 2016 Russell Nesbitt Services, Inc. failed to undertake appropriate outreach and positive recruitment activities that were reasonably designed to effectively recruit qualified protected veterans, document these activities, assess their effectiveness, and document its review, in violation of 41 CFR § 60-300.44(f). Specifically, Russell Nesbitt Services, Inc. did not provide any documentation that it sent job vacancy announcements to recruitment sources for qualified veterans.

REMEDY: Russell Nesbitt Services, Inc. will undertake appropriate external outreach and positive recruitment activities that are reasonably designed to effectively recruit qualified protected veterans, such as those described at 41 CFR § 60-300.44(f)(2). Russell Nesbitt Services, Inc. will annually review its outreach and recruitment activities, assess their effectiveness, and document this review, in accordance with 41 CFR § 60-300.44(f)(3). Russell Nesbitt Services, Inc. will document all activities it undertakes to comply with this section, in accordance with 41 CFR § 60-300.44(f)(4). Among its outreach activities, Russell Nesbitt Services, Inc. may contact the below sources to solicit their assistance and support or to similar organizations by sending them its job vacancy announcements:

West Virginia Department of Veteran Assistance
51 Eleventh Street, Room 300
Wheeling, West Virginia 26003
Tel: (304) 238-1085

8. VIOLATION: Russell Nesbitt Services, Inc. failed to undertake appropriate outreach and positive recruitment activities that are reasonable designed to effectively recruit qualified individuals with disabilities, document these activities, assess their effectiveness, and document its review, in violation of 41 CFR § 60-741.44(f). Specifically, Russell Nesbitt Services, Inc. did not provide any documentation that it sent job vacancy announcements to recruitment sources for qualified individuals with disabilities.

REMEDY: Russell Nesbitt Services, Inc. will undertake appropriate external outreach and positive recruitment activities that are reasonably designed to effectively recruit qualified individuals with disabilities, such as those described at 41 CFR § 60-741.44(f)(2). Russell Nesbitt Services, Inc will annually review its outreach and recruitment activities, assess their effectiveness, and document this review, in accordance with 41 CFR § 60-741.44(f)(3). Russell Nesbitt Services, Inc will document all activities it undertakes to comply with this section, in accordance with 41 CFR § 60-741.44(f) (4). Among its outreach activities, Russell Nesbitt Services, Inc. may contact the below sources to solicit their assistance and support or to similar organizations by sending them its job vacancy announcements:

West Virginia Aging and Disability Network
1400 Ohio Avenue, Suite B
Dunbar, West Virginia 25064

West Virginia Division of Rehabilitative Services
1324 Chapline Street, Suite 200
Wheeling, West Virginia 26003
Tel: (304) 238-1092

Part III: Reporting

1. Russell Nesbitt Services, Inc. agrees to retain records pertinent to the violations cited in Part II above, and to the reports submitted in compliance with Paragraph 2, below. These records shall include data and information underlying the required reports, specifically, but not limited to all applications and personnel records. The records will be retained until the expiration of this Agreement or consistent with regulatory requirements, whichever is later.
2. Russell Nesbitt Services, Inc. agrees to furnish the OFCCP with the following reports to:

Ms. Dianna Adams
Assistant District Director
U.S. Department of Labor
400 North 8th Street, Suite 466
Richmond, Virginia 23219

The First Report shall be due thirteen (13) months after the effective date of this Agreement and shall cover the twelve (12) month period of time beginning on the effective date of this Agreement and shall be mailed within thirty (30) days after the close of the first twelve(12) month period.

The Second Report shall cover the successive twelve (12) month period, and shall be mailed within thirty (30) days after the close of that twelve (12) month period.

The date of signature by OFCCP's District Director shall constitute the effective date of this Agreement.

Each report shall contain the following:

- A. Documentary evidence that Russell Nesbitt Services, Inc. preserved all personnel or employment record made or kept by the contractor for a period of not less than two years from the date of the making of the record or the personnel action involved, which occurs later as specified in the Remedy to Violation 1. Provide documentation of data on your employment activity (applicants and hires) for your current AAP year. For applicants and hires, provide in detail of any data management techniques used during the application process, which should include the criteria that were used and the number of applicants identified in each step.
- B. Documentary evidence that Russell Nesbitt Services, Inc. identified and maintained where possible, the gender, race, and ethnicity of each applicant or Internet Applicant as specified in the Remedy to Violation 2. Provide applicant flow information delineated by name, race, sex, job group, job title and final disposition of each applicant.
- C. Provide a copy of Russell Nesbitt Services, Inc.'s written policy designed to prevent discriminatory actions against pregnant employees and verification that all managers and supervisors have reviewed the policy pursuant in the Remedy to Violation 3.
- D. Provide a copy of Russell Nesbitt Services, Inc.'s written policy designed to prevent harassment, intimidation, threats, coercion, or discrimination and verification that all managers and supervisors have reviewed the policy pursuant in the Remedy to Violation 4.
- E. Documentation of the training provided to Russell Nesbitt Services, Inc.'s managers and supervisors, pursuant to the remedy for Hostile Work Environment in the Remedy to Violation 5. This documentation must identify the following:
 - a. Time and place of the training;
 - b. Name and job title of the person(s) who conducted the training;

- c. Name, job title, and signature of all Russell Nesbitt Services, Inc. manager and supervisor employees who attended the training;
 - d. Subject matter of the training, including any handouts, visual presentations or other materials; and
 - e. The location and duration of the training.
- F. Documentation of listings of all job openings with the appropriate employment service delivery system where the opening occurs as specified in the Remedy to Violation 6. Provide documentation of referrals from the state employment service should include but not limited to the name(s) of the individual(s) referred; date(s) of referral; final disposition of the referred individual's application; and, when applicable, the reason(s) why a referred individual was not hired by Russell Nesbitt Services, Inc. For referrals hired from the state employment service, please include the job title and salary or hourly rate of pay.
- G. Documentary evidence of outreach and positive recruitment activities designed to effectively recruit qualified veterans as specified in the Remedy to Violation 7. Provide documentation of referrals from the veterans recruitment source which should include but not limited to the name(s) of the individual(s) referred; date(s) of referral; final disposition of the referred individual's application; and, when applicable, the reason(s) why a referred individual was not hired by Russell Nesbitt Services, Inc. For referrals hired from the veterans recruitment sources, please include the job title and salary or hourly rate of pay.
- H. Documentation evidence outreach and positive recruit Documentary evidence outreach and positive recruitment activities that were reasonable designed to effectively recruit qualified individuals with disabilities for vacancies that were filled through external hire at its Wheeling, West Virginia facility, as specified in the Remedy to Violation 8. Provide documentation of referrals from the above referral source to include but not limited to the name(s) of the individual(s) referred; date(s) of referral; final disposition of the referred individual's application; and, when applicable, the reason(s) why a referred individual was not hired by Russell Nesbitt Services, Inc. For referrals hired from the individual with disabilities recruitment source, please include the job title and salary or hourly rate of pay.
3. This Conciliation Agreement shall remain in effect until the review and acceptance by OFCCP of Russell Nesbitt Services, Inc. final progress report.

PART IV: Signatures

This Conciliation Agreement is hereby executed by and between the Office of Federal Contract Compliance Programs and Russell Nesbitt Services, Inc., 431 Fulton Street, Wheeling, WV 26003

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

JANE KETCHAM
Executive Director
Russell Nesbitt Services, Inc.

DATE: 7-22-2019

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

(b) (6), (b) (7)(E)
Compliance Officer
Richmond Area Office
OFCCP

DATE: 7/22/2019

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

DIANNA ADAMS
Assistant District Director
Richmond Area Office
OFCCP

DATE: 7/22/2019