

CONCILIATION AGREEMENT

Between

THE U. S. DEPARTMENT OF LABOR
OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS

And

Consolidated Transportation Service, Inc.
278 Leon Guerrero Drive
Tamuning, GU 96931

PART I. PRELIMINARY STATEMENT

The Office of Federal Contract Compliance Programs (“OFCCP”) evaluated Consolidated Transportation Services, Inc. (hereinafter “CTSI”) and found that CTSI was not in compliance with Executive Order 11246, as amended (“E.O. 11246”); Section 503 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. §793 (“Section 503”); the Vietnam Era Veterans’ Readjustment Assistance Act of 1974, as amended, 38 U.S.C. §4212 (“VEVRAA”); and their implementing regulations at 41 CFR Section(s) §60-1, §60-2, §60-3, §60-4, §60-300 and §60-741. OFCCP notified CTSI of the specific violations found and the corrective actions required in an Amended Show Cause Notice issued on December 10, 2018. In the interest of resolving the violations without engaging in further legal proceedings and in exchange for the good and valuable consideration described in this document, OFCCP and CTSI enter this contract (“Agreement”) and agree to all the terms stated below.

PART II. GENERAL TERMS AND CONDITIONS

1. In exchange for CTSI’s fulfillment of all obligations in Parts III and IV of the Agreement, OFCCP agrees not to institute administrative or judicial enforcement proceedings under E.O. 11246, Section 503, and/or VEVRAA based on the violations described in more detail in Part III below. However, OFCCP has the right to initiate legal proceedings to enforce the Agreement itself or to correct and obtain relief for the violations described in Part III if CTSI violates this Agreement. Nothing in this Agreement precludes OFCCP from initiating enforcement proceedings based on future compliance evaluations or complaint investigations.
2. CTSI agrees that OFCCP may review its compliance with this Agreement. As part of such review, OFCCP may require written reports, inspect the premises, interview witnesses, and examine and copy documents. CTSI will permit access to its premises during normal business hours for these purposes and will provide OFCCP with all reports and documents requested.

3. CTSI understands that nothing in this Agreement relieves CTSI of its obligation to fully comply with the requirements of E.O. 11246, Section 503, VEVRAA, their implementing regulations, and other applicable equal employment laws.
4. CTSI promises not to harass, intimidate, threaten, discriminate, or otherwise retaliate against any individual because the individual: benefits from this Agreement, files a complaint or participates in any investigation or proceeding under E.O. 11246, Section 503, and/or VEVRAA, or engages in any activity listed at 41 CFR §60-1.32(a).
5. The parties understand the terms of this Agreement and enter into it voluntarily.
6. This document and its attachments contain the complete and final understanding of the parties with respect to the matters referenced herein. This Agreement contains all terms by which the parties are bound and it supersedes all prior written or oral negotiations and agreements. There will be no modifications or amendments to this Agreement unless they are in writing, signed by all parties.
7. If one or more provisions of this Agreement are rendered unlawful or unenforceable, the remaining provisions will remain in full force and effect.
8. This Agreement becomes effective on the day it is signed by the District Director (the "Effective Date") unless the Regional Director or Director of OFCCP indicates otherwise within 45 calendar days of the date the District Director signs the Agreement.
9. This Agreement will expire sixty (60) days after CTSI submits the final progress report required in Part IV below, unless OFCCP notifies CTSI in writing prior to the expiration date that CTSI has not fulfilled all of its obligations under the Agreement, in which case the Agreement is automatically extended until the date that OFCCP determines CTSI has met all of its obligations under the Agreement.
10. If CTSI violates this Conciliation Agreement,
 - A. The procedures set forth at 41 CFR §60-1.34, 60-300.63, and 60-741.63 will govern:
 - 1) If OFCCP believes that CTSI violated any term of the Agreement while it was in effect, OFCCP will send CTSI a written notice stating the alleged violations and summarizing any supporting evidence.
 - 2) CTSI will have 15 days from receipt of such notice to demonstrate in writing that it has not violated the Conciliation Agreement, unless such a delay would result in irreparable injury to the employment rights of affected employees or applicants.
 - 3) If CTSI 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.

- 4) OFCCP may seek enforcement of this Agreement itself and is not required to present proof of any underlying violations resolved by this Agreement.
- B. CTSI may be subject to the sanctions set forth in Section 209 of the Executive Order, 41 CFR §60-300.66, and 41 CFR §60-741.66 and/or other appropriate relief for violation of this Agreement.

PART III. SPECIFIC STATEMENT OF VIOLATIONS AND REMEDIES

1. 41 CFR 60-1.20(e) – AFFIRMATIVE ACTION PROGRAM – E.O. 11246

VIOLATION: During the period of December 31, 2016 through June 12, 2018, CTSI failed to submit a copy of its current Executive Order 11246 affirmative action program (AAP) and supporting documentation prepared in accordance with 41 CFR 60-2, as required by 41 CFR 60-1.20(e).

REMEDY: Subsequent to an OFCCP Notice to Show Cause dated June 8, 2018, CTSI submitted an Executive Order 11246 AAP on June 12, 2018, along with the supporting documentation specified in the original request. For the duration CTSI holds a non-exempt Government contract or subcontract as defined in 41 CFR 60-1.3 and 41 CFR 60-1.5, and meets the regulatory requirements to develop and maintain an Executive Order 11246 AAP as required by 41 CFR 60-2, it will submit its Executive Order 11246 AAP and supporting documentation within 30 days of OFCCP's official notification requesting the AAP and supporting documentation.

2. 41 CFR 60-2.10-17 – AFFIRMATIVE ACTION PROGRAM – E.O. 11246

VIOLATION: During the period December 31, 2016 through June 12, 2018, CTSI failed to prepare and maintain an Executive Order 11246 AAP, in violation of 41 CFR 60-2. Accordingly, CTSI failed to comply with any of its AAP obligations set forth in Subpart B of the regulations, 41 CFR 60-2.10-17.

REMEDY: Subsequent to an OFCCP Notice to Show Cause dated June 8, 2018, CTSI prepared an Executive Order 11246 AAP as of June 12, 2018. CTSI will continue to prepare and maintain an Executive Order 11246 AAP. The AAP shall set forth CTSI's policies and procedures in accordance with 41 CFR 60-2.10-17. This AAP may be integrated into or kept separate from other AAPs. CTSI will review and update annually its AAP pursuant to 41 CFR 60-2.1(c), and must comply with all obligations set forth in Subpart B of the regulations, 41 CFR 60-2.10-17.

3. 41 CFR 60-741.40(c) – AFFIRMATIVE ACTION PROGRAM – SECTION 503

VIOLATION: During the period December 31, 2016 through June 12, 2018, CTSI failed to submit a copy of its current Section 503 AAP and supporting documentation prepared in accordance with 41 CFR 60-741.40-45, as required by 41 CFR 60-741.40(c).

REMEDY: Subsequent to an OFCCP Notice to Show Cause dated June 8, 2018, CTSI submitted a Section 503 AAP on June 12, 2018. For the duration CTSI holds a non-exempt Government contract or subcontract as defined in 41 CFR 60-741.2, and meets the regulatory requirements to develop and maintain a Section 503 AAP as required by 41 CFR 60-741.40, it will submit its Section 503 AAP and supporting documentation within 30 days of OFCCP's official notification requesting the AAP and supporting documentation.

4. 41 CFR 60-741.40(b) – AFFIRMATIVE ACTION PROGRAM – SECTION 503

VIOLATION: During the period of December 31, 2016 through June 12, 2018, CTSI failed to prepare and maintain an affirmative action program (AAP) for qualified individuals with disabilities at each establishment, in violation of 41 CFR 60-741.40(b). Accordingly, CTSI failed to comply with any of its AAP obligations set forth in Subpart C of the regulations, 41 CFR 60-741.40-45.

REMEDY: Subsequent to an OFCCP Notice to Show Cause dated June 8, 2018, CTSI submitted a Section 503 AAP on June 12, 2018. CTSI will continue to prepare and maintain an affirmative action program (AAP) for qualified individuals with disabilities at each establishment. The AAP shall set forth CTSI's policies and procedures in accordance with 41 CFR 60-741.40-45. This AAP may be integrated into or kept separate from other AAPs. CTSI will review and update annually its AAP pursuant to 41 CFR 60-741.40(c), and will comply with all obligations set forth in Subpart C of the regulations, 41 CFR 60-741.40-45.

5. 41 CFR 60-300.40(d) – AFFIRMATIVE ACTION PROGRAM – VEVRAA

VIOLATION: During the period December 31, 2016 through June 12, 2018, CTSI failed to submit a copy of its VEVRAA AAP and supporting documentation prepared in accordance with 41 CFR 60-300.40-45, as required by 41 CFR 60-300.40(d).

REMEDY: Subsequent to an OFCCP Notice to Show Cause dated June 8, 2018, CTSI submitted a VEVRAA AAP on June 12, 2018. For the duration CTSI holds a non-exempt Government contract or subcontract as defined in 41 CFR 60-300.2, and meets the regulatory requirements to develop and maintain a VEVRAA AAP as required by 41 CFR 60-300.40, it will submit its VEVRAA AAP and supporting documentation within 30 days of OFCCP's official notification requesting the AAP and supporting documentation.

6. 41 CFR 60-300.40(b) – AFFIRMATIVE ACTION PROGRAM – VEVRAA

VIOLATION: During the period of December 31, 2016 through June 12, 2018, CTSI failed to prepare and maintain an affirmative action program (AAP) for protected veterans at each establishment, in violation of 41 60-300.40(b). Accordingly, CTSI failed to comply with any of its obligations set forth in Subpart C of the regulations, 41 CFR 60-300.40-45.

REMEDY: Subsequent to an OFCCP Notice to Show Cause dated June 8, 2018, CTSI submitted an AAP for protected veterans on June 12, 2018. CTSI will continue to prepare and maintain an affirmative action program (AAP) for protected veterans at each

establishment. The AAP shall set forth CTSI's policies and procedures in accordance with 41 CFR 60-300.40-45. This AAP may be integrated into or kept separate from other AAPs. CTSI will review and update annually its AAP pursuant to 41 CFR 60-300.40(c), and will comply with all obligations set forth in Subpart C of the regulations, 41 CFR 60-300.40-45.

7. 41 CFR 60-300.5 – MANDATORY JOB LISTING – VEVRAA

VIOLATION: During the period December 31, 2016 through May 11, 2018, CTSI failed to immediately list all required employment openings with either the state workforce agency job bank or local employment service delivery system serving the location where the openings occurred in violation of 41 CFR 60-300.5(a)2-6.

REMEDY: CTSI will list all employment openings as they occur with an appropriate employment service delivery system (ESDS) (either the state workforce agency 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 CTSI, as required by 41 CFR 60-300.5(a)2-6. With its initial listing, and as subsequently needed to update the information, CTSI 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 41 CFR 60-300.5(a)4. Should any of the information in the disclosures change since it was last reported to the ESDS, the contractor shall provide updated information simultaneously with its next job listing.

PART IV. REPORTS REQUIRED

CTSI will submit two (2) reports and documents as described below to: OFCCP, Lynda Sakseangvirat, District Director, San Jose District Office, Pacific Region, at 300 Ala Moana Blvd., Room 7-227, P.O. Box 50149, Honolulu, HI 96850. CTSI agrees to retain records pertinent to the violations cited in Part III above and to the reports submitted in compliance with Paragraph 3, 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.

1. The reporting periods and due dates for these progress reports are outlined below:

<u>REPORT DUE DATE</u>	<u>PERIOD COVERED</u>
July 31, 2019 (1 st Report)	December 31, 2018 – June 29, 2019
January 31, 2020 (2 nd Report)	June 30, 2019 – December 30, 2019

2. Each report shall include at least:

First Progress Report:

- A. VIOLATIONS #1 & #2: Complete 2019 Executive Order 11246 affirmative action program (AAP) and supporting documentation prepared in accordance with 41 CFR 60-1.20(e).
- B. VIOLATIONS #3 & #4: Complete 2019 Section 503 affirmative action program (AAP) and supporting documentation prepared in accordance to 41 CFR 60-741-40(b). Supporting documentation should show that CTSI is in compliance with the following obligations, set forth in Subpart C of the regulations, 41 CFR 60-741.40-45:
1. 41-CFR 60-741-40(b) - Prepare and maintain an AAP for covered individuals with disabilities;
 2. 41 CFR 60-741-41 - Availability of the AAP; Location and hours available upon request by any employee or applicant;
 3. 41 CFR 60-741-42 - Invitation to self-identify; pre-offer and post offer
 4. 41 CFR 60-741-43 - Affirmative Action policy
 5. 41 CFR 60-741-44 - Contents of Affirmative Action Program:
 - a. Policy Statement
 - b. Review of personnel processes
 - c. Physical and mental qualification
 - d. Reasonable accommodation to physical and mental limitations
 - e. Harassment
 - f. External dissemination of policy, outreach and positive recruitment
 - g. Internal dissemination of policy
 - h. Audit and reporting system
 - i. Responsibility for implementation
 - j. Training
 - k. Data collection analysis:
 - (1) Number of applicants who self-identified as protected veterans;
 - (2) Total number of job openings;
 - (3) Total number of applicants for all jobs;
 - (4) The number of protected veteran applicants hired; and
 - (5) The total number of applicants hired
 6. 41 CFR 60-741.45 – Utilization goals
- C. VIOLATIONS #5 & #6: Complete 2019 VEVRAA affirmative action program (AAP) and supporting documentation prepared in accordance to 41 CFR 60-300.40(b). Supporting documentation should show that CTSI is in compliance with the following obligations, set forth in Subpart C of the regulations, 41 CFR 60-300.40-45:
1. 41 CFR 60-300.40(b) – Prepare and maintain an AAP for covered veterans;
 2. 41 CFR 60-300.41 – Availability of the AAP; Location and hours available upon request by any employee or applicant;
 3. 41 CFR 60-300.42 – Invitation to self-identify; pre-offer and post offer
 4. 41 CFR 60-300.43 – Affirmative Action policy

5. 41 CFR 60-300.44 – Contents of Affirmative Action Program:
 - a. Policy Statement
 - b. Review of personnel processes
 - c. Physical and mental qualification
 - d. Reasonable accommodation to physical and mental limitations
 - e. Harassment
 - f. External dissemination of policy, outreach and positive recruitment
 - g. Internal dissemination of policy
 - h. Audit and reporting system
 - i. Responsibility for implementation
 - j. Training
 - k. Data collection analysis:
 - (1) Number of applicants who self-identified as protected veterans;
 - (2) Total number of job openings;
 - (3) Total number of applicants for all jobs;
 - (4) The number of protected veteran applicants hired; and
 - (5) The total number of applicants hired
 6. 41 CFR 60-300.45 – Benchmarks for hiring
- D. VIOLATION #7: Evidence of listing all employment openings with the local employment delivery system serving the location where the openings occur according to 41 CFR 60-300.5(a)2-6 (up to the date of the report).

Second Progress Report:

- A. Violation #3:

CTSI will provide documentation of its outreach and recruitment efforts for individuals with disabilities (**IWDs**), such as a list with a detailed description of all outreach and recruitment activities undertaken, to include support documentation like letters, emails, memos, and any other related documents that show the name of each organization contacted, contact person name, contact phone number and/or email address, outreach events that company attended and the results from attending the event.
- B. Violation #5:

CTSI will provide documentation of its outreach and recruitment efforts for **protected veterans**, such as a list with a detailed description of all outreach and recruitment activities undertaken, to include support documentation like letters, emails, memos, and any other related documents that show the name of each organization contacted, contact person name, contact phone number and/or email address, outreach events that company attended and the results from attending the event.
- C. Violation #7:

CTSI will provide documentation showing (1) all employment openings were listed with the appropriate local or state ESDS where the openings occurred; (2) the number of referrals corresponding to each listed vacancy.

3. CTSI will retain all records and data pertinent to the violations resolved by this Agreement and/or used to prepare required reports until this Agreement expires or as long as required by OFCCP's regulations, whichever date occurs later.

PART V. SIGNATURES

This Conciliation Agreement is hereby executed by and between the Office of Federal Contract Compliance Programs and CTSI, 278 Leon Guerrero Drive, Tamuning, Guam 96931.

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

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

Mr. George Chiu
Executive Vice President
Consolidated Transportation Services, Inc.
278 Leon Guerrero Drive
Tamuning, GU 96931

(b) (7)(C), (b) (7)(E)

Compliance Officer
Hawaii Area Office
Pacific Region

DATE: 12/21/18

DATE: 1/02/2019

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

Lynda Saksangvirat
District Director
San Jose District Office
Pacific Region

DATE: 01/14/2019