

**CONCILIATION AGREEMENT
BETWEEN THE U. S. DEPARTMENT OF LABOR
OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS**

AND

**DIVERSE STAFFING
DBA DIVERSE STAFFING SERVICES, INC
7135 WALDEMAR DRIVE
INDIANAPOLIS, INDIANA 46268**

PART I: GENERAL PROVISIONS

1. This Agreement is between the Office of Federal Contract Compliance Programs (hereinafter OFCCP) and Diverse Staffing dba Diverse Staffing Services, Inc., 7135 Waldemar Drive, Indianapolis, Indiana 46268 (hereinafter DSS).
2. The violations identified in this Agreement were found during a compliance evaluation of DSS which began on March 27, 2018 and they were specified in a Notice of Violation issued [DATE]. OFCCP alleges that DSS has violated 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 USC §4212) and the implementing regulations at 41 CFR Chapter 60 due to the specific violations cited in Part II below.
3. This Agreement does not constitute an admission by DSS of any violation 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 USC §4212) and implementing regulations.
4. The provisions of this Agreement will become part of DSS' Affirmative Action Program (AAP). Subject to the performance by DSS of all promises and representations contained herein and in its AAP, all named violations in regard to the compliance of DSS with all OFCCP programs will be deemed resolved. However, DSS 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.
5. DSS agrees that OFCCP may review compliance with this Agreement. As part of such 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 DSS's compliance. DSS shall permit access to its premises during normal business hours for these purposes.
6. Nothing herein is intended to relieve DSS from the obligation to comply with the requirements of Executive Order 11246, as amended, and/or 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), and implementing regulations, or any other equal employment

statute or executive order or its implementing regulations.

7. DSS 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, and/or 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).
8. This Agreement becomes effective on the day it is signed by the District Director of the Midwest Region (the "Effective Date").
9. If, at any time in the future, OFCCP believes that DSS has violated any portion of this Agreement during the term of this Agreement, DSS 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 DSS with 15 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 DSS has violated this Conciliation Agreement, OFCCP may seek enforcement of this Agreement itself and shall not be required to present proof of the underlying violation resolved by this Agreement.

Liability for violation of this Agreement may subject DSS to sanctions set forth in [as applicable, Section 209 of the Executive Order, CFR 60-300.65 and .66 and/or 41CFR 741.65 and .66 and/or other appropriate relief.

PART II: SPECIFIC PROVISIONS

1. **VIOLATION**: DSS failed to preserve all personnel and employment records for a period of not less than two years from the date of a) the making of the record or b) the personnel action involves whichever occurred later as required by 41 CFR 60-1.12(a). Specifically, DSS did not maintain all resumes and/or applications for all persons considered for employment in Job Group 3 Technicians during the review period of March 27, 2016 through March 27, 2018. In addition, DSS did not maintain self-identification forms completed by all applicants or hires.

REMEDY: DSS will preserve all personnel and employment records it makes or keeps in either electronic or hard copy format, including but not limited to all expressions of interest, physical and online applications, testing materials and interview records, for a period of not less than two years from the date of the making of the record, or personnel action involved, whichever occurs later as required by 41 CFR 60-1.12(a). Where a compliance evaluation

has been initiated by OFCCP, DSS will preserve all employment and personnel records until OFCCP makes a final disposition in the matter, even if such preservation is beyond the two year period.

2. **VIOLATION:** During the period March 27, 2016 through March 27, 2018, DSS failed to keep and preserve all personnel and employment records, in violation of 41 CFR 60-300.80. Specifically, DSS failed to keep the records specified in 60-300.80(b) for three years.

REMEDY: DSS will keep and preserve all personnel and employment records, in accordance with 41 CFR 60-300.80, and will keep and preserve those records specified in 41 CFR 60-300.80(b) for a period of three years from the date of the making of the record.

3. **VIOLATION:** During the period March 27, 2016 through March 27, 2018, DSS failed to keep and preserve all personnel and employment records, in violation of 41 CFR 60-741.80. Specifically, DSS failed to keep the records specified in 60-741.80(b) for three years.

REMEDY: DSS will keep and preserve all personnel and employment records, in accordance with 41 CFR 60-741.80, and will keep and preserve those records specified in 41 CFR 60-741.80(b) for a period of three years from the date of the making of the record.

4. **VIOLATION:** DSS failed to develop an affirmative action program in accordance with the requirements of 41 CFR 60-2.1(c). Specifically, DSS failed to develop an affirmative action program within 120 days of the commencement of a contract. Prior to receiving the OFCCP scheduling letter on March 27, 2018, DSS had not developed an affirmative action program. Specifically, DSS failed to provide the developed affirmative action program prior to the receipt of a Notice to Show Cause issued on May 30, 2018, which DSS received on June 3, 2018. On June 29, 2018, DSS submitted an AAP, which OFCCP deemed to be acceptable.

REMEDY: DSS will ensure that its affirmative action program is updated annually in accordance with the requirements of 41 CFR Part 60-2.1(c).

5. **VIOLATION:** During the period March 27, 2016 through March 27, 2018, DSS 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, DSS failed to comply with any of its AAP obligations set forth in Subpart C of the regulations, 41 CFR 60-741.40-45. Specifically, DSS failed to provide its AAP for individuals with disabilities prior to the receipt of a Notice to Show Cause issued on May 30, 2018, which DSS received on June 3, 2018. On June 29, 2018, DSS submitted an AAP, which OFCCP deemed to be acceptable.

REMEDY: DSS will prepare and maintain an affirmative action program (AAP) for qualified individuals with disabilities at each establishment. The AAP shall set forth

DSS's policies and procedures in accordance with 41 CFR 741.40–45. This AAP may be integrated into or kept separate from other AAPs. DSS shall review and update annually its AAP pursuant to 41 CFR 60–741.40(c), and must comply with all obligations set forth in Subpart C of the regulations, 41 CFR 60–741.40–45.

6. **VIOLATION:** During the period March 27, 2016 through March, 27, 2018, DSS failed to prepare and maintain an affirmative action program (AAP) for protected veterans at each establishment, in violation of 41 CFR 60–300.40(b). Accordingly, DSS failed to comply with any of its AAP obligations set forth in Subpart C of the regulations, 41 CFR 60–300.40–45. Specifically, DSS failed to provide its AAP for protected veterans prior to the receipt of a Notice to Show Cause issued on May 30, 2018, which DSS received on June 3, 2018. On June 29, 2018, DSS submitted an AAP, which OFCCP deemed to be acceptable except for section 42(a) (Pre-Offer) in its entirety.

REMEDY: DSS will prepare and maintain an affirmative action program (AAP) for protected veterans at each establishment. The AAP shall set forth DSS's policies and procedures in accordance with 41 CFR 300.40–45. This AAP may be integrated into or kept separate from other AAPs. DSS shall review and update annually its AAP pursuant to 41 CFR 60–300.40(c), and must comply with all obligations set forth in Subpart C of the regulations, 41 CFR 60–300.40–45.

7. **VIOLATION:** During the period March 27, 2016 through March 27, 2018 DSS 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, DSS failed to invite self-id at the pre-offer and post-offer stages by failing to use the approved OMB self-identification form.

REMEDY: DSS 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 must be made using the OMB-approved form for this purpose (available on the OFCCP website).

More specifically, DSS 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). DSS 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, DSS 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, DSS shall remind its employees that they may voluntarily update their disability-related self-identification information at any time. DSS must 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).

- 8, **VIOLATION**: During the period March 27, 2016 through March 27, 2018, DSS 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. Specifically, DSS failed to provide the opportunity to self-identify at the pre-offer stage.

REMEDY: DSS 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, DSS shall invite applicants for employment, prior to an offer of employment, to voluntarily identify as a protected veteran. Additionally, DSS 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. DSS 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 must comply with the requirements of 41 CFR 60–300.42(c). DSS must 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).

Documentation demonstrating DSS’s compliance with these remedies shall be maintained and made available to OFCCP upon request. DSS commits that these violations shall not recur.

PART III: REPORTING

1. DSS agrees to retain records pertinent to violations cited in Part II above, and to the reports submitted in compliance with Paragraph 2, below. These records shall include data and/or 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. DSS agrees to furnish the OFCCP, Birch Bayh Federal Building & U.S. Courthouse, 46 East Ohio Street, Room 419, Indianapolis, Indiana, 46204 with the following reports, covering a four-year time period:

The first report shall be due July 15, 2019, and shall cover the period January 1, 2019 through June 30, 2019. The second report shall be due January 15, 2020, and shall cover the period July 1, 2019 through December 31, 2019. The third report shall be due July 15, 2020, and shall cover the period January 1, 2020 through June 30, 2020. The fourth report shall be due January 15, 2021, and shall cover the period July 1, 2020 through December 31, 2020. The fifth report shall be due July 15, 2021, and shall cover the period January 1, 2021 through June 30, 2021. The sixth report shall be due January 15, 2022, and shall cover the period July 1, 2021 through December 31, 2021. The seventh report shall be due July 15, 2022, and shall cover the period January 1, 2022 through June 30, 2022. The eighth report shall be due January 15, 2023, and shall cover the period July 1, 2022 through December 31, 2022.

Each report will include the following:

1. Violations 1, 2, and 3: A copy of the applicant flow log for the reporting period. At a minimum, this should include each applicant's name, race/ethnicity, gender, disability status, protected veteran status, date of application, and the job they applied for and the disposition for each applicant.
2. Violation 4: Summaries of the personnel activity data for the reporting period. This shall include the following:
 - a. Total applicants, total female applicants, and total minority applicants for each job group.
 - b. Total hires, total female hires, and total minority hires for each job group.
 - c. Total promotions, total female promotions, and total minority promotions from each job group.
 - d. Total terminations, total female terminations, and total minority terminations from each job group.
3. Violations 4, 5, and 6: AAPs that meets the requirements of Executive Order 11246, Section 503 of the Rehabilitation Act of 1973, the Vietnam Era Veterans' Readjustment Assistance Act of 1974, and their implementing regulation at 41 CFR Chapter 60.
4. Violation 7: Copies of completed self-identification forms completed by applicants during the reporting period, using the required OMB-approved form, and indicating both the pre- and post-offer opportunity for the applicant to self-identify their status as an individual with disability.
5. Violation 8: Copies of completed self-identification forms completed by applicants during the reporting period, indicating both the pre- and post-offer opportunity for the applicant to self-identify their status as a protected veteran.

TERMINATION DATE: This Agreement will expire 90 days after OFCCP receives the report required in Part III above or on the date that the District Director gives notice to DSS that DSS has satisfied its reporting requirements, whichever occurs earlier, unless OFCCP notifies DSS in writing prior to the end of the 90-day period that DSS has not satisfied its reporting requirements pursuant to this Agreement.

INTEGRATION CLAUSE: This Agreement represents the full Agreement between DSS and the OFCCP and this Agreement supersedes any other agreements, oral or written. In signing this Agreement, neither DSS nor the OFCCP relies upon any promise, representation of fact or law, or other inducement that is not expressed in this Agreement. This Agreement may be modified only by written agreement of the Parties affected and may not be modified by any oral agreement.

PART IV: SIGNATURES

The person signing this Conciliation Agreement on behalf of Diverse Staffing Services, Inc. personally warrants he/she is fully authorized to do so, that Diverse Staffing Services, Inc. has entered into this Conciliation Agreement voluntarily and with full knowledge of the effect thereof, and that execution of this Agreement is fully binding on Diverse Staffing Services, Inc. This Conciliation Agreement is hereby executed by and between the Office of Federal Contract Compliance Programs and Diverse Staffing Services, Inc.

4/18/19
DATE

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

~~GEORGE AFGAR~~ *Zynthia Cox*
~~MANAGING PARTNER~~
DIVERSE STAFFING SERVICES, INC.
INDIANAPOLIS, INDIANA
Ex Dir Adm Svcs
EXECUTIVE DIRECTOR ADMINISTRATIVE SERVICES

04/23/2019
DATE

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

DAVID A. SMITH
ASSISTANT DISTRICT DIRECTOR
OFCCP
INDIANAPOLIS, INDIANA

4/23/2019
DATE

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

COMPLIANCE OFFICER
OFCCP
INDIANAPOLIS, INDIANA

4/24/19
DATE

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

MAXINE MANUS
DISTRICT DIRECTOR
OFCCP
INDIANAPOLIS, INDIANA