

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

And

POMP'S TIRE SERVICE INC.  
1123 CEDAR ST  
GREEN BAY, WI 54301-4703

**I. Preliminary Statement**

The Office of Federal Contract Compliance Programs (OFCCP) evaluated Pomp's Tire Service, Inc. (hereinafter "Pomp's") establishment located at 1123 Cedar St. Green Bay, WI 54301, beginning on September 20, 2019. OFCCP found that Pomp's failed to comply with Section 503 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 793 (Section 503) and its implementing regulations at 41 CFR 60-741.44(k), 41 CFR 60-741.44(f), and 41 CFR 60-741.42(a).

OFCCP notified Pomp's of the specific violations and the corrective actions required in a Notice of Violation issued on February 24, 2020 (NOV).

In the interest of resolving the violations without engaging in further legal proceedings and in exchange for sufficient and valuable consideration described in this document, OFCCP and Pomp's enter into this Conciliation Agreement (Agreement) and the parties agree to all the terms therein.

**II. General Terms and Conditions**

1. In exchange for Pomp'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 Pomp's 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 Pomp'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 related to Pomp's compliance with this Agreement. Pomp's 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 reasonably requested by OFCCP related to compliance with this Agreement, including those specified in this Agreement, unless such documents are covered by the attorney-client privilege or work product doctrine.

3. Nothing in this Agreement relieves Pomp's 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. Pomp's 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 District Director of the Milwaukee District Office (the "Effective Date") unless the Midwest Regional Director of OFCCP indicates otherwise within 45 calendar days of the date the District Director signs the Agreement.
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 Pomp's submits its final progress report required in Section IV, below, unless OFCCP notifies Pomp's in writing before the expiration date that Pomp's 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 Pomp's has met all of its obligations under the Agreement.
10. If Pomp's violates this Agreement:
  - a. The procedures at 41 C.F.R. 60-741.63 (2014) will govern:
    - i. OFCCP will send Pomp's a written notice stating the alleged violations and summarizing any supporting evidence.
    - ii. Pomp's 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 Pomp's 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 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 agreed to in the Agreement.
  - b. Pomp's 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 (2014), or 41 C.F.R. 60-300.66 (2014), and/or other appropriate relief for violating this Agreement.
11. This Agreement does not constitute an admission by Pomp's of any violation of Section 503 or any other law 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, and cannot be used as evidence that Pomp's is not in compliance with any applicable federal, state, or local laws, including but not limited to Section 503 and the Americans with Disabilities Act.
  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

1. **Violation:** During the period January 1, 2018 through June 30, 2019, POMP'S TIRE SERVICE INC. failed to document and maintain the required data pertaining to applicants and hires, in violation of 41 CFR 60-741.44(k). Specifically, POMP'S TIRE SERVICE INC. failed to provide the number of applicants with disabilities and the total number of applicants for three years.

**Remedy:** POMP'S TIRE SERVICE INC. will document the following computations or comparisons pertaining to applicants and hires, on an annual basis, and will maintain this data for three (3) years, as required by 41 CFR 60-741.44(k): the number of applicants who self-identified as individuals with disabilities, or who are otherwise known to be individuals with disabilities; the total number of job openings and total number of jobs filled; the total number of applicants for all jobs; the number of applicants with disabilities hired; and the total number of applicants hired.

2. **Violation:** During the period January 1, 2018 through June 30, 2019, POMP'S TIRE SERVICE INC. failed to undertake appropriate outreach and positive recruitment activities that were reasonably 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(£). Specifically, POMP'S TIRE SERVICE INC. failed to conduct outreach and positive recruitment for individuals with disabilities and to document these activities and assess the effectiveness of their outreach.

**Remedy:** POMP'S TIRE SERVICE INC. will undertake appropriate outreach and positive recruitment activities that are reasonably designed to effectively recruit qualified individuals with disabilities, document these activities, assess their effectiveness, and document its review, as required by 41 CFR 60-741.44(£). POMP'S TIRE SERVICE INC. in addition to adding outreach and recruitment sources in their local recruitment area that focus on attracting individuals with disabilities to apply for open positions, will also establish communication with their Wisconsin Division of Vocational Rehabilitation Representative Michael Glaser, Business Services Consultant.

3. **Violation:** During the period January 1, 2018 through June 30, 2019, POMP'S TIRE SERVICE INC. failed to invite its 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(a). Specifically, POMP'S TIRE SERVICE INC. failed to provide the OMB-approved self-identification form for applicants applying in person or online.

**Remedy:** POMP'S TIRE SERVICE INC. will invite each of its applicants for 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). All invitations to self-identify will be made using the OMB-approved form for this purpose (available on the OFCCP website). Furthermore, POMP'S TIRE SERVICE INC. 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).

#### IV. OFCCP Monitoring Period

##### Contractor Reports

Pomp's agrees to furnish OFCCP with two (2) progress reports during the Monitoring Period (July 1, 2020 until this Agreement ends pursuant to II. 9 above) with regard to the locations covered by the AAP for 1123 Cedar St., Green Bay, Wisconsin:

1. The Progress Reports will be furnished according to the following schedule:

**Progress Report 1:** Reporting Period: July 1, 2020 - December 31, 2020; report will be due on February 1, 2021;

**Progress Report 2:** Reporting Period: January 1, 2021 - June 30, 2021; report will be due on August 1, 2021.

2. Progress Report 1 shall include at least the following for remedies 1, 2, and 3 for the applicable Reporting Period:
  - a. An excel spreadsheet with a line for each applicant with the following information in separate columns: an applicant number (if otherwise generated by Pomp's in the regular course of business), applicant name, telephone number, and the applicant's response to the OMB-approved Self-Identification form provided to them in during the application process.
  - b. If Pomp's provides applicants with hard copies of the OMB-approved Self-Identification form, Pomp's will include with its report a non-redacted copy of each form returned by an applicant. If Pomp's new applicant tracking system does not store completed forms, Pomp's will provide screen shots of the self-identification portion of the application process so that OFCCP can verify that Pomp's has met its obligation to provide each applicant an opportunity to interact with the OMB-approved form.

- c. Computations or comparisons pertaining to applicants and hires in the format required by 41 CFR 60-741.44(k) for the relevant Reporting Period: the number of applicants who self-identified as individuals with disabilities, or who are otherwise known to be individuals with disabilities; the total number of job openings and total number of jobs filled; the total number of applicants for all jobs; the number of applicants with disabilities hired; and the total number of applicants hired. Pomp's shall maintain this data for three (3) years.
  - d. Documentation that demonstrates appropriate outreach and positive recruitment activities involving sources likely to reach individuals with disabilities in the Green Bay reasonable recruitment area including identification of the outreach sources, a summary of the outreach activities, and an initial assessment of effectiveness. As part of their recruitment efforts Pomp's agrees to communicate with their Wisconsin Division of Vocational Rehabilitation Representative and provide documentation of those communications.
3. Progress Report 2 shall include at least the following for remedies 1, 2, and 3 for the applicable Reporting Period:
- a. An excel spreadsheet with a line for each applicant with the following information in separate columns: an applicant number (if otherwise generated by Pomp's in the regular course of business), applicant name, telephone number, and the applicant's response to the OMB-approved Self-Identification form provided to them in during the application process.
  - b. If Pomp's provides applicants with hard copies of the OMB-approved Self-Identification form, Pomp's will include with its report a non-redacted copy of each form returned by an applicant. If Pomp's new applicant tracking system does not store completed forms, Pomp's will provide screen shots of the self-identification portion of the application process so that OFCCP can verify that

Pomp's has met its obligation to provide each applicant an opportunity to interact with the OMB-approved form.

- c. Computations or comparisons pertaining to applicants and hires in the format required by 41 CFR 60-741.44(k) for the relevant Reporting Period: the number of applicants who self-identified as individuals with disabilities, or who are otherwise known to be individuals with disabilities; the total number of job openings and total number of jobs filled; the total number of applicants for all jobs; the number of applicants with disabilities hired; and the total number of applicants hired. Pomp's shall maintain this data for three (3) years.
- d. Documentation that demonstrates appropriate outreach and positive recruitment activities involving sources likely to reach individuals with disabilities in the Green Bay reasonable recruitment area including identification of the outreach sources and a summary of the outreach activities. In addition, Pomp's shall assess the effectiveness of each outreach effort undertaken in both reporting periods and the totality of the outreach efforts as required by 41 C.F.R. 60-741.44(f)(3). If Pomp's concludes that, considering the factors in 41 C.F.R. 60-741.44(f)(3), the totality of its efforts were not effective, it will identify and implement alternative efforts to fulfill its outreach obligations

3. Pomp's will submit the two Progress Reports to OFCCP, (b) (7)(E) Compliance Officer Milwaukee District Office, at 310 W. Wisconsin Avenue, Suite 1115, Milwaukee, WI 53203 and/or (b) (7)(E) Pomp's 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 Pomp's provides in accordance with this agreement are customarily kept private or closely-held, and Pomp's believes should remain confidential under Exemption 4 of the Freedom of Information Act (FOIA) in the event of a FOIA request, Pomp's will provide such reports to OFCCP marked as "Confidential". In the event of a FOIA request, OFCCP will treat any such documents received as confidential documents.

**4. 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 Part 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 Pomp's 1123 Cedar St. Green Bay, WI 54301.

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

Paul Wochinske  
President  
POMP'S TIRE SERVICE INC.  
1123 Cedar St.  
Green Bay, WI  
DATE: 4/17/2020

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

Timothy Roark  
District Director  
Milwaukee District Office

DATE: 04/21/2020

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

**(b) (7)(E), (b) (6)**  
Compliance Officer  
Milwaukee District Office

DATE: 04/17/2020