

Conciliation Agreement
Between the
U.S. Department of Labor/Office of Federal Contract Compliance Programs
and
FedEx Supply Chain

I. PRELIMINARY STATEMENT

The Office of Federal Contract Compliance Programs ("OFCCP") evaluated the FedEx Supply Chain ("Contractor") establishment located at 325 S. Salem Church Road, York, Pennsylvania 17408-5500, beginning on June 25, 2018. OFCCP found that the contractor failed to comply with Executive Order 11246, as amended ("EO 11246" or "the Executive Order"), Section 503 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 793 ("Section 503"), and/or the Vietnam Era Veterans' Readjustment Assistance Act of 1973, as amended, 38 U.S.C. § 4212 ("VEVRAA"), and their respective implementing regulations at 41 CFR 60-1.12, 60-2.1, 60-2.11, 60-2.12, 60-2.17, 60-3.4, and 60-3.15.

OFCCP notified the contractor of the specific violations and the corrective actions required in a Notice of Violation issued on February 3, 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 Contractor enter into this Conciliation Agreement ("Agreement") and its attachments, and the parties agree to all the terms therein.

The attachments to this Agreement are deemed incorporated into this Conciliation Agreement.

II. GENERAL TERMS AND CONDITIONS

- A. In exchange for the 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 I, below. Nothing in this Agreement precludes OFCCP from initiating enforcement proceedings based on future compliance evaluations or complaint investigations.

- B. 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 regular business hours for these purposes and will provide OFCCP with all hard copy or electronic reports and documents it requests, including those specified in this Agreement.

- C. 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 non-discrimination or equal employment opportunity through affirmative action.
- D. 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.
- E. The parties understand the terms of this Agreement and enter into it voluntarily.
- F. This Agreement, including its attachments, 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.
- G. This Agreement becomes effective on the day it is signed by the District Director (the "In Effect Date").
- H. If one or more provisions of this Agreement are deemed unlawful or unenforceable, the remaining provisions will remain in full force and effect.
- I. This Agreement will expire sixty (60) days after Contractor submits its final progress report required in Part 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.
- J. If Contractor violates this Agreement:
 - 1. 41 C.F.R. § 60-1.34 will govern:
 - i. OFCCP will send Contractor a written notice stating the alleged violations and summarizing any supporting evidence.
 - ii. The Contractor shall have 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 an irreparable injury, enforcement proceedings may be initiated immediately without issuing a show cause notice or proceeding through any other requirement.
- 2. Contractor may be subject to the sanctions set forth in Section 209 of the Executive Order, 41 C.F.R. 60-1.27, and/or other appropriate relief for violating this Agreement.
- K. Contractor neither admits nor denies any violation of the Executive Order, Section 503 or VEVRAA, nor has there been an adjudication on the merits regarding any such violation.
- L. OFCCP may seek enforcement of this Agreement itself and is not required to present proof of any underlying violations resolved by this Agreement.
- M. 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.
- N. Each party shall bear its own fees and expenses with respect to this matter.
- O. 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.
- P. All references to "days" in this Agreement, and in the Timeline included as an Attachment, 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. VIOLATIONS

1. **ALLEGED VIOLATION:** FedEx Supply Chain failed to collect and maintain personnel and employment records in accordance with the requirements of 41 CFR 60-1.12 and Part 60-3, the Uniform Guidelines on Employee Selection Procedures (UGESP), as required by 41 CFR 60-3.4. Specifically, FedEx Supply Chain failed to identify accurately where possible, the gender, race, and ethnicity of each applicant or Internet Applicant, as required by 41 CFR 60-1.12(c)(1)(ii) and 60-3.4 B. Specifically, FedEx Supply Chain failed to provide records by sex, and the following races and ethnic groups: Blacks, American

Indians (including Alaskan Natives), Asians (including Pacific Islanders), Hispanics (including persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish origin or culture regardless of race), and whites (Caucasians other than Hispanics), and totals.

REMEDY: FedEx Supply Chain will ensure that its records are collected and maintained in accordance with the requirements of 41 CFR 60-1.12 and Part 60-3, the Uniform Guidelines on Employee Selection Procedures (UGESP), as required by 41 CFR 60-3.4. FedEx Supply Chain will conduct an adverse impact analysis on at least an annual basis to determine whether adverse impact exists against applicants based on race, sex, or ethnicity in hiring. These analyses must be done by job group for each group constituting more than 2% of the labor force in the relevant labor area or 2% of the applicable workforce. If an adverse impact is identified in the total selection process, FedEx Supply Chain must evaluate each individual component of the selection process for adverse impact. FedEx Supply Chain will keep records in accordance with the Equal Employment Opportunity Standard Form 100, Employers Information Report EEO-1 series of reports. FedEx Supply Chain will adopt safeguards to ensure that the records required by this paragraph are used for appropriate purposes, such as determining adverse impact and monitoring affirmative action programs, and that such records are not used improperly.

2. **ALLEGED VIOLATION:** During the period June 1, 2017 through May 31, 2018, FedEx Supply Chain failed to develop and implement an internal audit and reporting system that accurately periodically measures the effectiveness of its total Affirmative Action Program (AAP), as required by 41 CFR 60-2.17(d) and 60-3.15. Specifically, FedEx Supply Chain failed to demonstrate during its compliance review that it had been able to accurately monitor records of all personnel activity, including placements, promotions, and compensation at all levels, to ensure its nondiscriminatory policy is carried out.

REMEDY: FedEx Supply Chain will develop and implement an internal audit and reporting system that periodically measures the effectiveness of its total AAP, as required by 41 CFR 60-2.17(d). Specifically, FedEx Supply Chain will develop and implement an internal audit and reporting system to periodically measure the effectiveness of the total AAP by conducting adverse impact analyses on personnel activity data at least semi-annually, and must take appropriate action to remedy any issues identified. Additionally, FedEx Supply Chain will monitor records of all applicants and hiring, promotion and termination activity, and compensation at all levels, and will review report results with all levels of management, to advise top management of program effectiveness and submit recommendations to improve unsatisfactory performance.

IV. OFCCP MONITORING PERIOD

A. **Recordkeeping.** Contractor agrees to retain all records relevant to the violations cited in Part III above and the reports submitted in compliance with Paragraph B below. 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.

Schedule and Instructions. FedEx Supply Chain agrees to submit two (2) progress reports.

1. The first report shall be due **January 31, 2021**, and will cover the period September 1, 2020 through November 30, 2020.
2. The second report shall be due **June 30, 2021**, and will cover the period December 1, 2020 through May 31, 2021.

Each report shall contain the following:

1. Personnel activity data by job group for applicants, hires, promotions, and terminations, summarized by gender, race, and ethnicity (Hispanic or non-Hispanic); and
2. The Job Group Analysis from the then prior-year AAP.

The first report shall also contain a description of the effective internal audit and reporting system put into place to periodically measure the effectiveness of the total Affirmative Action Program (AAP).

FedEx Supply Chain will submit reports to 2 Hopkins Plaza, Suite 600, Baltimore, MD 21201.

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 outlined in Part II, Paragraph I, 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 FedEx Supply Chain, 325 S. Salem Church Road, York, Pennsylvania 17408- 5500.

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

SCOTT TEMPLE
President & Chief Executive Officer
FedEx Supply Chain
York, PA 17408-5500

DATE: 9/16/20

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

(b) (6), (b) (7)(E)
Compliance Officer
Baltimore District Office
Mid-Atlantic Region

DATE: 09/22/2020

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

MAURICE E. RICHARD
Assistant District Director
Baltimore District Office
Mid-Atlantic Region

DATE: September 22, 2020

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

TOM G. WELLS
District Director
Baltimore District Office
Mid-Atlantic Region

DATE: September 23, 2020

Attachment: Timeline

Attachment: Timeline

Progress Report	Due Date
1 st Report	January 31, 2021
2 nd Report	June 30, 2021