

CONCILIATION AGREEMENT

Between

THE U.S. DEPARTMENT OF LABOR

OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS

And

SEATRAX, INC.

13223 FM 529

HOUSTON, TX 77041

I. Preliminary Statement

The Office of Federal Contract Compliance Programs (OFCCP) evaluated the Seatrax, Inc. (Seatrax) establishment located at 13223 FM 529, Houston, TX 77041, beginning on November 5, 2018. OFCCP found that Seatrax failed to comply with Executive Order 11246, as amended (E.O. 11246 or the Executive Order), the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended (VEVRAA), and their implementing regulations at 41 Code of Federal Regulations (C.F.R.) Chapter 60.

OFCCP notified Seatrax of the specific violations found and the corrective actions required in a Notice of Violations issued on September 22, 2020.

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 Seatrax enter into this Conciliation Agreement (Agreement), and the parties agree to all the terms therein.

II. General Terms and Conditions

1. In exchange for Seatrax's fulfillment of all its obligations in this Agreement, OFCCP will not institute administrative or judicial enforcement proceedings under E.O. 11246 or VEVRAA based on the violations alleged in the Notice of Violations (NOV). However, OFCCP retains the right to initiate legal proceedings to enforce this Agreement if Seatrax violates any provision of this Agreement, as set forth in Paragraph 11, below. Nothing in this Agreement precludes OFCCP from initiating enforcement proceedings based on future compliance evaluations or complaint investigations.

2. OFCCP may review Seatrax'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. Seatrax 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 it requests, including those specified in this Agreement.
3. Nothing in this Agreement relieves Seatrax of its obligation to fully comply with the requirements of E.O. 11246, 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 1974, as amended, 38 U.S.C. § 4212 (VEVRAA), their implementing regulations, or other applicable laws requiring nondiscrimination or equal employment opportunity through affirmative action.
4. Seatrax and OFCCP agree that any release of claims required by this Agreement will only pertain to claims under E.O. 11246, Section 503, and/or VEVRAA.
5. Seatrax 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.
6. The parties understand the terms of this Agreement and enter into it voluntarily.
7. 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. If an administrative error is found, OFCCP will work in good faith with all parties to make the corrections.
8. This Agreement becomes effective on the day it is signed by the Houston District Director (Effective Date).
9. If one or more provisions of this Agreement is deemed unlawful or unenforceable, the remaining provisions will remain in full force and effect.
10. This Agreement will expire sixty (60) days after Seatrax submits its final progress report required in Section VIII, below, unless OFCCP notifies Seatrax in writing before the expiration date that Seatrax 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 Seatrax has met all of its obligations under the Agreement.

11. If Seatrax violates this Agreement:

a. The procedures at 41 C.F.R. 60-1.34 and 41 C.F.R. 60-300.63 (2014) will govern:

- i. OFCCP will send Seatrax a written notice stating the alleged violations and summarizing any supporting evidence.
- ii. Seatrax 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 Seatrax 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.
- iv. In the event of a breach of this Agreement by Seatrax, 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. Seatrax 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. 60-300.66 (2014) and/or other appropriate relief for violating this Agreement.

12. Seatrax 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.

13. OFCCP may seek enforcement of this Agreement itself and is not required to present proof of any underlying violations resolved by this Agreement.

14. 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.

15. Each party shall bear its own fees and expenses with respect to this matter.

16. 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.

17. All references to "days" in this Agreement, and in the Timeline included as Attachment B, 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 and Remedies

1. VIOLATION: During the period January 1, 2017 through September 1, 2018, Seatrax failed to collect and maintain personnel or employment records in accordance with the requirements of 41 CFR 60-1.12, 60-3.4 and 60-3.15. Specifically, Seatrax hired by word-of-mouth, and failed to capture the race, gender, and ethnicity of all job seekers. Additionally, Seatrax failed to conduct an adverse impact analysis for race and gender on the overall selection process in accordance with the requirements of 41 C.F.R. 60-2.17(b)(2), 60-3.4 and 60-3.15A.

REMEDY: Effective immediately, Seatrax will ensure that records are collected and maintained in accordance with regulatory requirements. Seatrax will implement an adequate system to extend the invitation to self-identify to all individuals who apply for employment. Additionally, for any record made, Seatrax will identify the gender, race and ethnicity for employees, and where possible for each job seeker or internet applicant. Seatrax will maintain records or other information that will disclose the company's selection process has on employment opportunities of persons by identifiable race, gender, or ethnic group. Seatrax will conduct an accurate adverse impact analysis on at least an annual basis for purposes of determining whether adverse impact exists against applicants based on race, gender, or ethnic group in hiring, promotion, termination, and other personnel activities. These analyses will be done by job for each group constituting at least 2% of the labor force in the relevant labor area or 2% of the applicable workforce. If adverse impact is identified in the total selection process, Seatrax will evaluate each individual component of the selection process for adverse impact. If adverse impact is found to exist in any of the individual components of the selection process, Seatrax will validate the component(s) in accordance with the Uniform Guidelines on Employee Selection Procedures or utilize selection procedures that do not result in adverse impact.

2. VIOLATION: Seatrax established a single goal for minorities by job group where required, however they failed to identify a substantial disparity in the utilization of a particular minority group by job group as required by 41 CFR 60-2.16(d). Specifically, there is a substantial disparity in the utilization of black employees in Seatrax's workforce in several job groups.

REMEDY: Seatrax will make a determination based on 41 CFR 60-2.15 where a placement goal is required by comparing the percentage of blacks in each job group with the availability of blacks in those job groups. When the percentage of blacks employed in a particular job group is less than would reasonably be expected given their availability, Seatrax will establish placement goals where black employees are underutilized in accordance with 41 CFR 60-2.16(d).

3. VIOLATION: Seatrax failed to include an acceptable Identification of Problem Areas section in its Affirmative Action Program (AAP) as required by 41 CFR § 60-2.17(b). Specifically Seatrax failed to identify the low representation of black and female employees in its workforce, and the placement of females in primarily administrative jobs as problem areas in its AAP submitted for review. Seatrax only had 5 or 3.2% blacks and 17 or 10.8% females out of 157 employees in its workforce. Of the 17 female employees, 13 or 76% worked as Administrative Support Workers. Additionally, females were absent from Executive/Senior Level Officials & Managers, Technicians, and all blue collar job groups.

REMEDY: Effective immediately, Seatrax will address the low representation of black and female employees in its workforce; and the placement of females in primarily administrative positions in the Identification of Problem Areas section of its current AAP.

4. VIOLATION: Seatrax failed to develop and execute action-oriented programs designed to correct problem areas identified and to attain established goals and objectives, as required by 41 CFR § 60-2.17(c). Specifically, Seatrax failed to develop and execute action-oriented programs designed to expand employment opportunities for black and females. Specifically, during the review period, Seatrax did not conduct outreach to black and female recruitment sources and community organizations in an effort to increase the representation of black and female employees in its workforce.

REMEDY: Effective immediately, Seatrax will develop and execute action-oriented programs designed to increase the low representation of black and female employees in its overall workforce and in job groups where placement goals were established.

Seatrax shall, at minimum, contact the following Historically Black Colleges and Universities; and female organizations to assist in the execution of its action-oriented programs designed to correct all problem areas identified and to attain established goals and objectives:

Texas Southern University
Melissa Knight, M.Ed.
Career Services Coordinator
Career Center
Bell Building, 1st Floor
3100 Cleburne Street
Houston, TX 77004
Melissa.Knight@tsu.edu

Prairie View A&M University
Shadia Washington
Scheduling Coordinator
700 University Drive
Prairie View, TX 77446
sfwashington@pvamu.edu

Texas Veterans Commission
Krystle Matthews, Ed.D., HRD
Women Veterans Program Manager
2929 McKinney St.
Houston, TX 77003
Cell: (832) 728-3624
krystle.matthews@tvc.texas.gov

Houston Area Urban League
Young Professionals (HAULYP)
Elizabeth Fletcher
Parliamentarian
parliamentarian@haulyp.org

Goodwill Industries
(Veteran Services (females and Males))
Denetria, Hulin, Employment
Specialist for Veteran Services
3121 San Jacinto
Houston, TX 77004
Phone: (832) 900-7467
dhulin@goodwillhouston.org

Houston Area Women's Center
Ana Elisa DiCesare
1010 Waugh Drive
Houston, TX 77019
Phone: 713-528-6798
adicesare@hawc.org

5. **VIOLATION:** During the period of January 1, 2017 through August 22, 2018, Seatrax failed to immediately list all employment openings, except executive and senior management, those positions that will be filled from within the contractor's organization, and positions lasting three days or less, with either the state workforce agency job bank or a local employment service delivery system serving the location where the openings occurred which is in violation of 41 CFR 60-300.5(a)2-6.

REMEDY: On August 23, 2018, Seatrax began to list all employment openings, except executive and senior management, those positions that will be filled from within the contractor's organization, and positions lasting three days or less, 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 Seatrax, as required by 41 CFR 60-300.5(a)2-6. With its initial listing, and as subsequently needed to update the information, Seatrax 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, Seatrax will provide updated information simultaneously with its next job listing.

IV. OFCCP Monitoring Period

1. **Recordkeeping.** Seatrax agrees to retain all records relevant to the violations cited in Section III above and the reports submitted in compliance with Paragraph 2, 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. Seatrax will retain the records until this Agreement expires or for the time period consistent with regulatory requirements, whichever is later.

2. **Seatrax Reports.**

- a. **Schedule and Instructions.** Seatrax agrees to furnish OFCCP with the following reports during the Monitoring Period according to the following schedule:

Pursuant to Violation 1, Seatrax will submit two semi-annual progress reports to OFCCP. The following information will be included in each semi-annual report:

1. A log of all job seekers during the relevant review period. This log will include name, race, gender and ethnic group; recruitment source; disposition; job group, position applied for; and position hired into, if applicable.
2. The total number of applicants and hires by job group, race, gender, and ethnicity during the reporting period, including part-time workers;
3. For each job group, the results of Seatrax's analysis as to whether its total selection process has an adverse impact, as defined in 41 CFR § 60-3.4D, on those members of groups set forth in 41 CFR § 60-3.4B. Seatrax must combine the data for the current report with the data from the previous report(s) to analyze at least a 12-month period;
4. For each case where the total selection process has an adverse impact, as defined in 41 CFR § 60-3.4D, the results of Seatrax's evaluation of the individual components of the selection process for adverse impact; and/ or
5. The corrective actions Seatrax implemented upon determining that any component of the selection process has an adverse impact on a particular race, gender or ethnic group.

Pursuant to Violations 2 and 3, Seatrax will submit the following documentation by December 31, 2020:

6. A list of job groups, including percentage goals, that were established for blacks.
7. Modifications to the Identification of Problem Areas Section of Seatrax's current Minority and Female Affirmative Action Program addressing the low representation of blacks and females, and the placement of females in primarily administrative positions.

8. Modifications to the Action-Oriented Programs Section of Seatrax's current Minority and Female Affirmative Action Program, specifying the recruitment efforts that will be taken to increase the representation of blacks and females in the workforce and the placement females in positions other than administrative.

Seatrax will submit reports to Karen N. Hyman, District Director, OFCCP Houston District Office, 2320 LaBranch Street, Suite 1103, Houston, TX 77004 and

(b) (6), (b) (7)(C)@dol.gov. Seatrax 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 Seatrax provides in accordance with this Agreement are customarily kept private or closely-held, and Seatrax believes should remain confidential under Exemption 4 of the Freedom of Information Act (FOIA) in the event of an FOIA request, Seatrax will provide such reports to OFCCP marked as "Confidential". In the event of an FOIA request, OFCCP will treat any such documents received as confidential documents.

3. **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 Seatrax's final progress report as set forth in Part II, Paragraph 10 above. If OFCCP fails to notify Seatrax in writing within sixty (60) days of the date of the final progress report that Seatrax 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 Seatrax within the allotted time that it has not fulfilled all of its obligations, this Agreement is automatically extended until the date that OFCCP determines Seatrax has met all of its obligations under the Agreement.

V. SIGNATURES

The person signing this Agreement on behalf of Seatrax personally warrants that he or she is fully authorized to do so, that Seatrax has entered into this Agreement voluntarily and with full knowledge of its effect, and that execution of this Agreement is fully binding on Seatrax.

This Agreement is hereby executed by and between the Office of Federal Contract Compliance Programs and Seatrax.

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

CHARLIE KIRCHHOFF
Vice President of Finance
Seatrax, Inc.

Date: 9-24-2020

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

KAREN N. HYMAN
District Director
Houston District Office

Date: 9/25/2020

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

LATOYA SMITH
Assistant District Director
Houston District Office

Date: 9/25/2020

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

Compliance Officer
Houston District Office

Date: _____