

Conciliation Agreement
Between the United States Department of Labor
Office of Federal Contract Compliance Programs
And
Duckworth Pathology Group, Inc.
1211 Union Avenue, Suite 300
Memphis, Tennessee 38104-6655

PART I: General Provisions

1. This Agreement is between the Office of Federal Contract Compliance Programs (hereinafter OFCCP) and Duckworth Pathology Group, Inc. (hereinafter Duckworth).
2. The violations identified in this Agreement was found during a compliance evaluation of Duckworth at its establishment located at 1121 Union Avenue, Suite 300, in Memphis, Tennessee, which began on July 20, 2012, and they were specified in a Notice of Violation issued September 21, 2012. OFCCP alleges that Duckworth has violated Executive Order 11246, as amended; Section 503 of the Rehabilitation Act of 1973, as amended; the Vietnam Era Veterans' Readjustment Act of 1974, as amended (38 U.S.C. 4212) and their 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 Duckworth of any violation of Executive Order 11246, as amended; Section 503 of the Rehabilitation Act of 1973, as amended; the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended (38 U.S.C. 4212) and their implementing regulations.
4. The provisions of this Agreement will become part of Duckworth's affirmative action programs (AAPs). Subject to the performance by Duckworth of all promises and representations contained herein and in its AAPs, all named violations in regard to the compliance of Duckworth with all OFCCP programs will be deemed resolved. However, Duckworth 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. Duckworth 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 Duckworth's compliance. Duckworth shall permit access to its premises during normal business hours for these purposes.
6. Nothing herein is intended to relieve Duckworth from the obligation to comply with the requirements of Executive Order 11246, as amended; Section 503 of the Rehabilitation Act of 1973, as amended; the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended (38 U.S.C. 4212) and their implementing regulations, or any other equal employment statute or executive order or its implementing regulations.
7. Duckworth 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; Section 503 of the Rehabilitation Act of 1973, as amended; and the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended (38 U.S.C. 4212).

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8. This Agreement will be deemed to have been accepted by the Government on the date of signature by the District Director for OFCCP, unless the Regional Director or Director, OFCCP, indicates otherwise within 45 days of the District Director's signature on this Agreement.
9. If at any time in the future, OFCCP believes that Duckworth has violated any portion of this Agreement during the term of this Agreement, Duckworth 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 Duckworth 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 Duckworth has violated this Conciliation Agreement, OFCCP may seek enforcement of this Agreement itself and shall not be required to present proof of the underlying violations resolved by this Agreement.

Liability for violation of this Agreement may subject Duckworth to sanctions set forth in Section 209 of the Executive Order and/or other appropriate relief.

PART II: Specific Provisions

1. **VIOLATION**: Compensation data provided by Duckworth for its incumbent employees as of July 31, 2012, revealed that Duckworth failed to ensure that its employees are compensated without regard to racial minority status. Specifically:
 - Duckworth paid minority employee (b) (6), (b) (7)(C) \$1.80 less per hour than similarly situated non-minority (b) (6), (b) (7)(C). Time with Duckworth, time in job, experience, qualifications and performance did not justify the disparity.
 - Duckworth paid minority employee (b) (6), (b) (7)(C) \$4.00 less per hour than similarly situated non-minority (b) (6), (b) (7)(C). Time with Duckworth, time in job, experience, qualifications and performance did not justify the disparity.

In view of the above, OFCCP finds that Duckworth has discriminated against two minority employees in (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) positions because of their race, in violation of 41 CFR 60-1.4(a)(1).

REMEDY: Although Duckworth affirms that this disparity in pay was unintentional and disputes that its actions were discriminatory, Duckworth will do the following:

- Raise the hourly pay rate of Duckworth's current employee, (b) (6), (b) (7)(C) by \$1.80 per hour to \$18.68 per hour. Additionally, Duckworth will disburse \$12,386.58 in back pay and \$329.06 in interest to (b) (6), (b) (7)(C), minus deductions required by law.
- Disburse \$8,490.53 in back pay and \$88.56 in interest to former employee (b) (6), (b) (7)(C) in lump sum payments, minus deductions required by law.

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Duckworth will not retaliate, harass, or engage in any form of reprisal or other adverse action against (6), (7)(C) and/or (6), (7)(C) based on or in relation to the terms or provisions of this Remedy.

Within 90 days of the District Director's signature on this Agreement, Duckworth will provide training on its equal employment opportunity programs for all persons involved in determining compensation amounts paid to Duckworth's employees. Duckworth estimates the cost of this training at \$10,000. Duckworth will update this training annually.

Duckworth will immediately review and, as appropriate, revise its compensation system to ensure that this violation ceases. In addition, Duckworth will review at least annually and revise, as needed, its compensation system to ensure that this violation does not recur.

- 2. VIOLATION:** Duckworth failed to perform an in-depth analysis of its total employment process to determine whether and where impediments to equal employment opportunity exist. Specifically, Duckworth failed to conduct an analysis of its compensation systems to determine whether there were gender-, race-, or ethnicity-based disparities. 41 CFR 60-2.17(b) (3).

REMEDY: Duckworth must: (a) perform in-depth analyses of its compensation systems in order to determine whether and where impediments to equal employment opportunity exist; (b) develop and execute action-oriented programs referenced in 41 CFR 60-2.17(c) designed to correct any problem area identified pursuant to 41 CFR 60-2.17(b); (d) incorporate these analyses and action-oriented programs in its current AAP; (e) update them in Duckworth's future AAPs; and (f) demonstrate that Duckworth has made good faith efforts to remove identified barriers, expand employment opportunities and produce measurable results.

- 3. VIOLATION:** Duckworth failed to list, on an ongoing basis, all employment openings, as defined by 41 CFR 60-300.5(a) 2 and 6, with the state workforce agency job bank or with the local employment delivery system serving the location where openings occur. Additionally, Duckworth failed to undertake outreach and positive recruitment activities that are reasonably designed to effectively recruit disabled veterans, recently separated veterans, other protected veterans and Armed Forces service medal veterans. 41 CFR 60-300.5(a) 2-6 and 41 CFR 60-300.44(f).

REMEDY: Duckworth must list, on an ongoing basis, all employment openings, as defined by 41 CFR 60-300.5(a) 2 and 6, with the Tennessee State Job Bank or the local Tennessee State Employment Services office serving the location where openings occur. Duckworth must contact the resource identified below as part of Duckworth's outreach and positive recruitment activities to effectively recruit qualified disabled veterans, recently separated veterans, other protected veterans and Armed Forces service medal veterans.

Tennessee Career Center-Poplar
1295 Poplar Avenue
Memphis, Tennessee 38104
Contact: Danny Shields, Local Veterans' Employment Representative
Telephone: 901-543-7855

FUTURE CONDUCT: Duckworth will not repeat the above violations.

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Part III: Reporting

Duckworth shall submit **two reports**, as stated below, to the Assistant District Director—Memphis, United States Department of Labor, Office of Federal Contract Compliance Programs, 167 North Main Street, Room 101, Memphis, Tennessee 38103; Attention: (7)(C), (7)(E), Compliance Officer.

The **first report** shall be due 60 days following after the date this Agreement is signed by the District Director, OFCCP. The first report shall consist of the following:

1. A copy of (6), (7)(C) personnel form confirming a salary adjustment to \$18.68 per hour;
2. Evidence of back pay and interest disbursed to (6), (7)(C) and (6), (7)(C), including a) copies of the cancelled checks and b) pay slips showing the gross amounts of and legal deductions from these monies; and
3. Results of Duckworth's review of its compensation system, including findings, additional equity adjustments made and back pay disbursed, if any.

The **second report** shall be due September 30, 2013 and will cover the period beginning the day after the conclusion of the period covered by the first report and ending July 31, 2013. The second report shall consist of the following:

1. Documentation of training that Duckworth provided on its equal employment opportunity programs for all persons involved in determining compensation amounts paid to Duckworth's employees, including date(s) of training; names and titles of recipients; and invoices showing cost, if any; and
2. Results of Duckworth's follow-up annual review of its compensation system, including findings, additional equity adjustments and back pay, if any.
3. Documentation that Duckworth: a) listed all employment openings, as defined by 41 CFR 60-300.5(a) 2 and 6, with the Tennessee State Job Bank or the local Tennessee State Employment Services office serving the location where the openings occur; b) contacted the resource identified in Remedy 3 of Pat II above to recruit qualified disabled veterans, recently separated veterans, other protected veterans and Armed Forces service medal veterans, along with c) a report on the number of referrals and the number of hires from those listings, and from Duckworth's other positive outreach and recruitment activities targeting veterans, providing for the hires, to the extent known, disabilities, disabled veterans, recently separated veterans, other protected veterans and Armed Forces service medal veterans.

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

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INTEGRATION CLAUSE: This Agreement represents the full Agreement between Duckworth and OFCCP and this Agreement supersedes any other agreements, oral or written. In signing this Agreement, neither Duckworth nor 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 Duckworth Pathology Group, Inc. personally warrants that he is fully authorized to do so, that Duckworth Pathology Group, Inc. has entered into this Conciliation Agreement voluntarily and with full knowledge of the effect thereof, and that such execution is fully binding on Duckworth Pathology Group, Inc. This Conciliation Agreement is hereby executed by and between the Office of Federal Contract Compliance Programs and Duckworth Pathology Group, Inc.

DATE 9-26-12

(6), (7)(C)

Dr. Thomas O'Brien
President
Duckworth Pathology Group, Inc.
1211 Union Avenue, Suite 300
Memphis, Tennessee 38104-6655

DATE 9/26/2012

(6), (7)(C)

Jacqueline Singh
Assistant District Director—Memphis
Office of Federal Contract Compliance
Programs

DATE 9.26.12

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

Compliance Officer—Memphis
Office of Federal Contract Compliance
Programs

DATE 10/1/12

(6), (7)(C)

Ronald Bailey
District Director—Nashville
Office of Federal Contract Compliance
Programs