

Conciliation Agreement
Between the
U.S. Department of Labor Office of Federal Contract Compliance Programs
and
Lutheran Metropolitan Ministry

I. Preliminary Statement

The Office of Federal Contract Compliance Programs (OFCCP) evaluated the Lutheran Metropolitan Ministry's (Lutheran) establishment located at 2100 Lakeside Avenue, Cleveland, Ohio 44114, beginning on February 1, 2023. OFCCP found that Lutheran failed to comply with Executive Order 11246, as amended (E.O. 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 1974, as amended, 38 U.S.C. § 4212 (VEVRAA) and their respective implementing regulations at 41 CFR Chapter 60: Executive Order 11246, as amended; Section 503 of the Rehabilitation Act of 1973 (Section 503), as amended; or the Vietnam Era Veterans' Readjustment Assistance Act of 1974 (VEVRAA), as amended.

OFCCP notified Lutheran of the specific violations and the corrective actions required in a Notice of Violation (NOV) issued on December 11, 2023.

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

II. General Terms and Conditions

1. In exchange for Lutheran'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 Lutheran 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 Lutheran'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. Lutheran 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 OFCCP requests, including those specified in this Agreement.
3. Nothing in this Agreement relieves Lutheran 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. Lutheran 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 the District Director (Effective Date).
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 Lutheran submits its final progress report required in Section IV, below, unless OFCCP notifies Lutheran in writing before the expiration date that Lutheran 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 Lutheran has met all of its obligations under the Agreement.
10. If Lutheran violates this Agreement:
 - a. The procedures at 41 C.F.R. 60-1.34, 41 C.F.R. 60-300.63, and 41 C.F.R. 60-741.63 will govern:
 - i. OFCCP will send Lutheran a written notice stating the alleged violations and summarizing any supporting evidence.
 - ii. Lutheran 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 Lutheran 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 Lutheran, 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 in the Agreement.
 - b. Lutheran 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, or 41 C.F.R. 60-300.66, and/or other appropriate relief for violating this Agreement.
- 11. Lutheran does not admit any violation of the Executive Order, Section 503 or VEVRAA, 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.
- 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 and Remedies

- 1. **VIOLATION:** During the period January 1, 2022, through December 31, 2022, Lutheran failed to submit a copy of its current E.O. 11246 Affirmative Action Program (AAP) prepared in accordance with the requirements of 41 CFR 60-1.40, and 41 CFR 60-2.10 through 60-2.17.

CORRECTIVE ACTION: Lutheran will submit a copy of its current E.O. 11246 AAP prepared in accordance with the requirements of 41 CFR 60-1.40, and 41 CFR 60-2.10 through 60-2.17.

- 2. **VIOLATION:** During the period January 1, 2022, through December 31, 2022, Lutheran failed to immediately list all employment openings with either the state workforce agency job bank or a local employment service delivery system serving the location where the openings occurred in violation of 41 CFR 60-300.5(a)2-6.

CORRECTIVE ACTION: As of September 09, 2023, it was verified that Lutheran has posted with the employment service delivery system. Lutheran will continue to list all employment openings 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 Lutheran, as required by 41 CFR 60-300.5(a)2-6. With its initial listing, and as subsequently needed to update the information, Lutheran 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, Lutheran shall provide updated information simultaneously with its next job listing.

3. **VIOLATION:** During the period January 1, 2022, through December 31, 2022, Lutheran 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, Lutheran failed to comply with any of its AAP obligations set forth in Subpart C of the regulations, 41 CFR 60–300.40–45.

CORRECTIVE ACTION: Lutheran will prepare and maintain an affirmative action program (AAP) for protected veterans at each establishment. The AAP shall set forth Lutheran’s policies and procedures in accordance with 41 CFR 300.40–45. This AAP may be integrated into or kept separate from other AAPs. Lutheran 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.

4. **VIOLATION:** During the period January 1, 2022, through December 31, 2022, Lutheran 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, Lutheran failed to comply with any of its AAP obligations set forth in Subpart C of the regulations, 41 CFR 60–741.40–45.

CORRECTIVE ACTION: Lutheran will prepare and maintain an affirmative action program (AAP) for qualified individuals with disabilities at each establishment. The AAP shall set forth Lutheran’s policies and procedures in accordance with 41 CFR 741.40–45. This AAP may be integrated into or kept separate from other AAPs. Lutheran 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.

IV. OFCCP Monitoring Period

1. **Recordkeeping.** Lutheran 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. Lutheran will retain the records until this Agreement expires or for the time period consistent with regulatory requirements, whichever is later.

2. **Contractor Reports.**

Lutheran agrees to furnish OFCCP with the following reports during the Monitoring Period. Each report will contain the documentation specified according to the dates scheduled:

- a. Progress Report: Due on January 15, 2025 covering the period of the Effective Date of this Agreement through December 31, 2024.
 - I. A copy of Lutheran's current E.O. 11246, Individuals with Disabilities and Protected Veterans Affirmative Action Programs (AAPs).
 - II. Proof of submission of jobs listed with the 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 Lutheran, as required by 41 CFR 60-300.5(a)2-6.

Lutheran will submit reports to Compliance Officer (b) (6), (b) (7)(C) at (b) (6), (b) (7)(C)@dol.gov. Lutheran 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 Lutheran provides in accordance with this Agreement are trade secrets, commercial, and/or financial in nature, and customarily kept private or closely-held, and Lutheran believes should remain confidential under Exemption 4 of the Freedom of Information Act (FOIA) in the event of a FOIA request, Lutheran will provide such reports to OFCCP marked as "Confidential". In the event of a FOIA request, OFCCP will promptly notify Lutheran of the FOIA request and provide Lutheran an opportunity to object to disclosure. OFCCP will withhold disclosure of such reports to the maximum extent allowable by law.

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 Lutheran's final progress report as set forth in Section II, Paragraph 9 above. If OFCCP fails to notify Lutheran in writing within sixty (60) days of the date of the final progress report that Lutheran 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 Lutheran within the allotted time that it has not fulfilled all of its obligations, this Agreement is automatically extended until the date that OFCCP determines Lutheran has met all of its obligations under the Agreement.

SIGNATURES

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

This Agreement is hereby executed by and between the Office of Federal Contract Compliance Programs and Lutheran Metropolitan Ministry, 2100 Lakeside Avenue, Cleveland, Ohio 44114.

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

Maria Foschia
President & CEO
Lutheran Metropolitan Ministry
2100 Lakeside Avenue
Cleveland, Ohio 44114

DATE: 1/22/2024

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

Phyllis E. Lipkin
District Director
Columbus Area Office
Midwest Region

DATE: _____