

U.S. Department of Labor

Office of Federal Contract
Compliance Programs
130 South Elmwood Avenue
Suite 536
Buffalo, New York 14202



CONCILIATION AGREEMENT
BETWEEN
THE U.S. DEPARTMENT OF LABOR
OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS
AND
EMCOM, INC.
62 COLUMBUS STREET
AUBURN, NY 13021

OFCCP Case Number: R00164138

PART I: General Provisions

1. This Agreement is between the Office of Federal Contract Compliance Programs (hereinafter OFCCP) and EMCom, Inc. (herein after EMCom), 62 Columbus Street, Auburn, NY 13021.
2. The violations identified in this Agreement were found during a compliance review of EMCom, which began on March 7, 2011, and were specified in a Notice of Violations issued on February 6 2012. OFCCP alleges that EMCom has violated 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) and implementing regulations at 41 CFR Chapter 60 due to the specific violations cited in Part II below.
3. The provisions of this Agreement will become part of EMCom's Affirmative Action Program (AAP). Subject to the performance by EMCom of all promises and representations contained herein and in its AAP, all named violations in regard to the compliance of EMCom with all OFCCP programs will be deemed resolved. However, EMCom 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.
4. EMCom 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 EMCom's compliance. EMCom shall permit access to its premises during normal business hours for these purposes.

5. Nothing herein is intended to relieve EMCom from the obligation to comply with the requirements of the 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), and implementing regulations, or any other equal employment statute or executive order or its implementing regulations.
6. EMCom 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 participated 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).
7. 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 of this Agreement.
8. If at any time in the future, OFCCP believes that EMCom has violated any portion of this Agreement during the term of this Agreement, EMCom will be promptly notified of that fact in writing. This notification shall include a statement of the facts and circumstances relied upon in forming that belief. In addition, the notification will provide EMCom 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 issuance of Show Cause Notice.

Where OFCCP believes that EMCom 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 EMCom to sanctions set forth in Section 209 of the Executive Order 11246, as amended, 41 CFR 60-300.66 and 41 CFR 60-741.66 and/or other appropriate relief.

PART II- Specific Provisions

1. **Violation:** EMCom failed to take affirmative action and provide equal employment opportunity to a Black male in compensation. Specifically, EMCom did not provide equitable pay adjustments to a Black male (b) (7) (c) (b) (7) (c). EMCom's failure to equitably compensate the (b) (7) (c) is in violation of 41 CFR 60-1.4(a) (1).

Remedy: Within 30 days from the effective date of this Conciliation Agreement, EMCom will remit back wages plus interest in the amount of \$301.56 to (b) (7) (c) Specifically, (b) (7) (c)

will receive \$288 in back pay and \$13.56 in interest calculated using the Internal Revenue Service's underpayment formula.

Additionally, EMCom commits to implement a compensation system and train all appropriate personnel in that system to ensure that salary increases/adjustments are equitable.

2. **Violation:** EMCom failed to perform an in-depth analysis of its total employment process to determine whether and where impediments to equal employment opportunity exist and, where necessary, develop and execute action-oriented programs to correct those identified impediments, as required by 41 CFR 60-2.17(b)and(c).

Specifically, OFCCP found that during the AAP period from January 1, 2010 to December 31, 2010, EMCom failed to analyze and evaluate its applicant flow, hires, promotions and terminations to determine whether there were selection disparities based on gender, race or ethnicity.

Remedy: Within fifteen (15) days from the signature by the District Director of this Conciliation Agreement, EMCom will begin to evaluate its selection procedures and personnel activity to determine whether there are disparities based on gender, race or ethnicity. Further, where impediments are identified, EMCom will develop and execute action oriented programs designed to correct identified problems as required by 41 CFR 60- 2.17(c).

3. **Violation:** During the AAP period from January 1, 2010 to December 31, 2010, EMCom failed to develop and implement an auditing system that periodically measures the effectiveness of its total affirmative action program to ensure equal employment opportunity in accordance with 41 CFR 60-2.17(d).

Remedy: Within fifteen (15) days from the signature by the District Director of this Conciliation Agreement, EMCom will begin to develop and implement an auditing system in accordance with 41 CFR 60-2.17(d) that:

- a. Monitors records of all personnel activity including internal and external referrals and placements at all levels to ensure the nondiscriminatory policy is carried out;
- b. Requires internal reporting on a scheduled basis as to the degree to which equal employment opportunity and organizational objectives are attained;
- c. Reviews report results with all level of management, and
- d. Advises top management of program effectiveness and submit recommendations to improve unsatisfactory performance.

4. **Violation:** During the AAP period from January 1, 2010 to December 31, 2010, EMCom failed to implement an applicant tracking system for hires in accordance with the requirements of 41 CFR 60-3.4 and 41 CFR 60-3.15. Specifically, EMCom failed to collect race and gender data for all applicants who did not advance to the interview stage of its selection process.

Remedy: Within fifteen (15) days from the signature by the District Director of this Conciliation Agreement, EMCom will begin to implement an updated and refined applicant tracking system for hires that will allow it to analyze the pool of applicants for: a) Affirmative action purposes to ensure that the process is yielding an adequate pool of qualified minority and female applicants; and b) Nondiscrimination purposes to monitor for disparate treatment or unlawful adverse impact in the selection process.

5. **Violation:** During AAP period January 1, 2010 to December 31, 2010, EMCom failed to undertake appropriate outreach and positive recruitment activities that were reasonably designed to effectively recruit qualified minorities, females, disabled veterans, recently separated veterans, other protected veterans, Armed Forces service medal veterans and qualified individuals with disabilities. This is a violation of 41 CFR 60-2.17(c), 41 CFR 60-300.44(f) and 41 CFR 60-741.44(f).

Specifically, EMCom did not provide documentation that it undertook outreach or positive recruitment activities to recruit minorities, females, qualified disabled veterans, recently separated veterans, other protected veterans, Armed Forces service medal veterans and qualified individuals with disabilities.

Remedy: Within fifteen (15) days from the signature by the District Director of this Conciliation Agreement, EMCom will begin to take appropriate outreach and positive recruitment designed to recruit minorities, females, covered veterans and qualified individuals with disabilities. Specifically, EMCom will enlist the assistance and support of the following persons and recruitment organizations and will continue to do so for as long as it remains a federal contractor. However, EMCom will not be limited to these sources:

Finger Lakes Works - Geneva

70 Elizabeth Blackwell Street
Geneva, NY 14456
Telephone: (315) 789-1771
Fax: (315) 781-2289
Website: www.fingerlakesworks.com

Career Resource Center, Regional & Career Employment

1 Franklin Square
Geneva, NY 14456
(315) 781-7820
<http://www.wflboces.org/>

Cayuga Works Career Center

199 Franklin Street

Suite 204

Auburn, New York 13021

Contact: (b) (7) (c)

Phone: (b) (7) (c)

Fax: 315-253-1135

Email: (b) (7) (c)

Website: www.cortland-co.org/cayugaworks/cayugahome.asp

VA's Supported Employment Services Program

1031 East Fayette Street

Syracuse, NY 13210

Telephone: (315) 425-4400, x (b) (7) (c)

Cell: (b) (7) (c)

(b) (7) (c)

Email: (b) (7) (c)

NY Employment Solutions

The Epilepsy Foundation

1650 South Avenue, Suite 300

Rochester, NY 14620

Contact: (b) (7)(C)

Telephone: (315) 477-9777 x (b) (7)(C)

Cell: (b) (7)(C)

Email: (b) (7)(C)

Website: <http://www.nyemploymentsolutions.org>

EMCom will continue to undertake appropriate outreach and positive recruitment activities in accordance with the requirements contained in the regulations for as long as it remains a federal contractor.

6. **Violation:** During the AAP period January 1, 2010 to December 31, 2010, EMCom filled positions that were not executive or top management, were not filled from within its organization, and were not positions lasting three days or less. EMCom did not list these employment opportunities with the applicable local employment service office or through the state workforce job bank website. This failure is a violation of 41 CFR 60-300.5(a) 2.

Specifically, EMCom could not provide sufficient documentation that it listed any of its employment openings with the local employment service office of the New York State Department of Labor (NYSDOL) or through the NYSDOL's website.

Remedy: Within fifteen (15) days from the date of signature by the District Director of this Conciliation Agreement, EMCom will list its appropriate employment openings with the local employment service office of the NYSDOL at the address listed below or through the NYSDOL's website at www.laborny.jobs or at <http://www.jobcentral.com/ny/>. EMCom will continue to list these employment openings with NYSDOL for as long as it is subject to the

requirements of the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended (38 U.S.C. 4212).

Cayuga Works Career Center

199 Franklin Street

Suite 204

Auburn, New York 13021

Contact: (b) (7)(C)

Phone: (b) (7)(C)

Fax: 315-253-1135

Email: (b) (7)(C)

Website: www.cortland-co.org/cayugaworks/cayugahome.asp

EMCom commits that the above violations will not recur.

PART III-Reporting:

EMCom will furnish the OFCCP Buffalo Area Office with two (2) reports identified below.

The Area Office's mailing address is:

Buffalo Area Office, OFCCP
U.S. Department of Labor,
Employment Standards Administration,
Office of Federal Contracts Compliance Programs,
130 S. Elmwood Avenue, Room 536
Buffalo, New York 14202

EMCom will retain all records pertinent to the violations resolved by this Conciliation Agreement and to the reports submitted under it (including the underlying data/information upon which the reports are based) until the expiration date of the Conciliation Agreement or consistent with regulatory timeframes, whichever is later.

The first report is due report forty-five days (45) from the Effective Date of this Agreement. EMCom will include in this report documentation of the payment provided to (b) (7) (c). This documentation must include a copy of the cancelled check or other equivalent documentation that (b) (7) (c) was paid.

The second report will cover the period January 1, 2012 to December 31, 2012. EMCom will transmit the report in time to arrive in the Buffalo Area Office within 45 days of the expiration date of the reporting period. EMCom will include in the second report the following information:

1. Documentation that EMCom provided training to all employees who participate in compensation decision making. This documentation should include information such as:
 - time and place of training,

- name and job title of trainers and personnel attending training;
 - subject matter discussed relative to the company's compensation administration system;
 - amount of training provided to include hours.
2. A copy of the applicant flow log, indicating gender, race and/or ethnicity, date applied, whether interviewed, and disposition such as: hires, offers, declinations and/or reasons for rejections. If hired, indicate the date of this action.
 3. Copies of the adverse impact analyses performed for the reporting period. Where the total selection process has an adverse impact, EMCom will provide copies of the records or other information showing the components of the process having the adverse impact and what actions EMCom, Inc. took to correct the problem.
 4. EMCom will include in the report, the identification of problem areas for the preceding Affirmation Action Program year. For any identified problem areas EMCom will supply documentation which demonstrates the development and execution of action-oriented programs that it designed to eliminate the identified problem.
 5. Copies of notification sent to at least each recruitment organization identified in remedy to violation #5 above communicating EMCom's EEO policy. That notification should also include a request that the organization provide you with information on how they would like to be notified of your Company's openings and a contact person with that organization.
 6. A listing of all job openings that occurred during the reporting period;
 7. Documentation (such letters, emails, faxes, phones logs) verifying that each job opening was listed with at least the recruitment organizations identified in the remedy above;
 8. Copies of the organizations' responses to EMCom, including any referrals by race, gender, veteran status and disability status [if self-identified].
 9. The number of individuals hired from those referrals, by job title, during the reporting period.
 10. Copies of documentation verifying that each appropriate job opening was listed with the New York State Department of Labor, either directly with the local office of Cayuga Works Career Center, 199 Franklin Street, Suite 204, Auburn NY, 13021 or through the internet at www.laborny.jobs or their affiliate, Job Central at <http://www.jobcentral.com/ny/> .
 11. A list of veteran referrals from New York State and the disposition of each referral. If the referral was not hired provide the reason for non-selection. If the referral was hired, provide the job group and job title hired into and the annual salary at hire.

Termination Date:

The termination date of this Agreement shall be 60 days following submission by EMCom of the reports referenced above or if compliance is not accomplished by that date, then this Agreement shall remain in full force and effect until compliance is achieved.

PART IV: Signatures

This Conciliation Agreement is hereby executed by and between the Office of Federal Contract Compliance Programs and EMCom, Inc. Auburn, New York.

(b) (7) (c)

ENDY CHINA
President
EMCom, Inc.
62 Columbus Street
Auburn, NY 13021

DATE: 2/8/12

(b) (7) (c)

LYNN SHEAR
Assistant District Director
Buffalo Area Office

DATE: 2/10/12

(b) (7) (c)

ME MARY ELLEN BENTIVOGLI
District Director
Buffalo and Hartford Offices

DATE: 2/10/12