

# CONCILIATION AGREEMENT

Between

The U. S. Department of Labor  
Office of Federal Contract Compliance Programs

and

Forgen LLC

## **I. Preliminary Statement**

The Office of Federal Contract Compliance Programs (OFCCP) evaluated Forgen LLC (Forgen) located at 6558 Lonetree Blvd., Rocklin CA. compliance with its equal employment opportunity and affirmative action obligations on all of its federal, federally assisted, and non-federal construction projects located in Sacramento, CA Non-Standard Metropolitan Statistical Area (Non-SMSA) beginning on May 26, 2022. OFCCP found that Forgen failed to comply with Executive Order 11246, as amended, Section 503 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 793 (Section 503) and 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 Section(s) 60-1, 60-4, 60-741, and 60-300.

OFCCP notified Forgen of the specific violations and the corrective actions required in a Notice of Violation (NOV) issued on February 9, 2023.

In the interest of resolving the violations without engaging in further legal proceedings and in exchange for the good and valuable consideration described in this document, OFCCP and Forgen enter into this Conciliation Agreement, and the parties agree to all the terms therein.

## **II. General Terms and Conditions**

1. In exchange for Forgen's fulfillment of all its obligations in this Agreement, OFCCP will not institute administrative or judicial enforcement proceedings under 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 Forgen 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 Forgen'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. Forgen 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 Forgen 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. Forgen 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 Forgen submits the final progress report required in Section IV, below, unless OFCCP notifies Forgen in writing before the expiration date that Forgen 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 Forgen has met all of its obligations under the Agreement.
10. If Forgen violates this Agreement:
  - a. The procedures at 41 CFR 60-1.34, 41 CFR 60-741.63, and 41 CFR 60-300.63 will govern:
    - i. OFCCP will send Forgen a written notice stating the alleged violations and summarizing any supporting evidence.
    - ii. Forgen 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 Forgen is unable to demonstrate that it has not violated the Agreement, or if OFCCP's 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 Forgen, 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. Forgen may be subject to the sanctions set forth in Section 209 of the Executive Order, 41 CFR 60-1.27, 41 CFR 60-741.66, or 41 CFR 60-300.66, and/or other appropriate relief for violating this Agreement.
11. Forgen 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 review period of May 25, 2021 through May 25, 2022, Forgen failed to conduct an evaluation of the effectiveness of its outreach and recruitment efforts that were intended to identify and recruit qualified individuals with disabilities and protected veterans, and document the results of such evaluation, as described in 41 CFR 60-741.44(f)(3) and 41 CFR 60-300.44(f)(3).

**Remedy:** Forgen must conduct and document the results of its evaluation of the effectiveness of outreach and recruitment efforts that were intended to identify and recruit qualified individuals with disabilities and protected veterans as described in 41 CFR 60-741.44(f)(3) and 41 CFR 60-300.44(f)(3).



2. **Violation:** During the review period of May 25, 2021, through May 25, 2022, Forgen failed to include an equal opportunity clause in each of its covered Government contracts or subcontracts, as described in 41 CFR 60-1.4(a) and (b), 41 CFR 60-300.5(a), and 41 CFR 60-741.5 (a).

**Remedy:** Forgen must include an equal opportunity clause in each of its covered Government contracts or subcontracts (and modifications, renewals, or extensions thereof if not included in the original contract) as described in 41 CFR 60-1.4(a) and (b), 41 CFR 60-300.5(a), and 41 CFR 60-741.5 (a).

3. **Violation:** During the review period of May 25, 2021 through May 25, 2022, Forgen failed to provide written notice within 10 working days to OFCCP of the award of any construction subcontract in excess of \$10,000 that was made under a covered federal or federally assisted construction contract, as required by 41 CFR 60-4.2(d)3.

**Remedy:** Forgen must provide written notice within 10 working days to OFCCP of the award of any construction subcontract in excess of \$10,000 that is made under a covered federal or federally assisted construction contract.

#### IV. OFCCP Monitoring Period

1. **Recordkeeping.** Forgen 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. Forgen agrees to retain the records until this Agreement expires or for the time period consistent with regulatory requirements, whichever is later.
2. **Contractor Reports.**

In order for OFCCP to monitor Forgen's progress toward fulfilling the provisions of this Agreement, it will submit two (2) progress reports. Forgen will submit all progress reports electronically to Compliance Officer (b) (7)(C), (b) (6) at (b) (7)(C), (b) (6)@dol.gov.

Forgen 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 1: Due on January 31, 2024 covering the period of Effective Date through December 31, 2023
- b. Progress Report 2: Due on January 31, 2025 covering the period of January 1, 2024 through December 31, 2024.

- a. Documentation of Forgen's evaluation of each outreach effort intended to identify and recruit individuals with disabilities and protected veterans during the reporting period, including the specific criteria used to evaluate the effectiveness of each effort and Forgen's conclusion as to whether each effort was effective; also, a list of alternative efforts Forgen implemented where outreach and recruitment efforts are deemed not effective.
- b. Documentation Forgen included an equal opportunity clause in each of its covered Government contracts or subcontracts (and modifications, renewals, or extensions thereof if not included in the original contract) as described in 41 CFR 60-1.4(a) and (b), 41 CFR 60-300.5(a), and 41 CFR 60-741.5 (a).
- c. Documentation (i.e., dates of faxes, dates of mailings, email correspondence, etc.) of Forgen's notification to OFCCP of subcontracts in excess of \$10,000 within 10 days of award, during the reporting period.

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

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 Forgen's final progress report (#2), as set forth in Part II, Paragraph 9 above. If OFCCP fails to notify Forgen in writing within sixty (60) days of the date of the final progress report that Forgen 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 Forgen within the allotted time that it has not fulfilled all of its obligations, this Agreement is automatically extended until the date that OFCCP determines Forgen has met all of its obligations under the Agreement.

## V. SIGNATURES

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

This Agreement is hereby executed by and between the U.S. Department of Labor, Office of Federal Contract Compliance Programs and Forgen LLC, 6558 Lonetree Blvd., Rocklin, CA 95765-5874.

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

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John Dudasch  
Chief Operating Officer  
Forgen LLC

DATE: 2/16/23

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

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Marvin R. Jordan  
Director  
Phoenix District Office  
Pacific Region

DATE: \_\_\_\_\_