

CONCILIATION AGREEMENT

Between

THE U. S. DEPARTMENT OF LABOR
OFFICE OF FEDERAL CONTRACT COMPLIANCE
PROGRAMS

and

iCAN Resources
520 Chorito Blvd, Ste 201
Asan, Guam 96910

PART I. PRELIMINARY STATEMENT

The Office of Federal Contract Compliance Programs ("OFCCP") evaluated iCAN Resources, 520 Chorito Blvd, Suite 201, Asan, Guam, 96910, and found that iCAN was not in compliance with Executive Order 11246, as amended ("E.O. 11246"); Section 503 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 793 ("Section 503"); the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, 38 U.S.C. § 4212 ("VEVRAA"); and their implementing regulations at 41 C.F.R. Section(s) 60-1, 60-2, 60-3, 60-4, 60-300 and 60-741. OFCCP notified iCAN of the specific violations found and the corrective actions required in a Notice of Violation issued on April 17, 2019. 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 iCAN enter this contract ("Agreement") and agree to all the terms stated below.

PART II. GENERAL TERMS AND CONDITIONS

1. In exchange for iCAN's fulfillment of all obligations in Parts III and IV of the Agreement, OFCCP agrees not to institute administrative or judicial enforcement proceedings under E.O. 11246, Section 503, and/or VEVRAA based on the violations described in more detail in Part III below. However, OFCCP has the right to initiate legal proceedings to enforce the Agreement itself or to correct and obtain relief for the violations described in Part III if iCAN violates this Agreement. Nothing in this Agreement precludes OFCCP from initiating enforcement proceedings based on future compliance evaluations or complaint investigations.
2. iCAN agrees that OFCCP may review its compliance with this Agreement. As part of such review, OFCCP may require written reports, inspect the premises, interview witnesses, and examine and copy documents. iCAN will permit access to its premises during normal business hours for these purposes and will provide OFCCP with all reports and documents requested.

3. iCAN understands that nothing in this Agreement relieves them of their obligation to fully comply with the requirements of E.O. 11246, Section 503, VEVRAA, their implementing regulations, and other applicable equal employment laws.
4. iCAN promises not to harass, intimidate, threaten, discriminate, or otherwise retaliate against any individual because the individual: benefits from this Agreement, files a complaint or participates in any investigation or proceeding under E.O. 11246, Section 503, and/or VEVRAA, or engages in any activity listed at 41 C.F.R. § 60-1.32(a).
5. The parties understand the terms of this Agreement and enter into it voluntarily.
6. This document and its attachments contain the complete and final understanding of the parties with respect to the matters referenced herein. This Agreement contains all terms by which the parties are bound and it supersedes all prior written or oral negotiations and agreements. There will be no modifications or amendments to this Agreement unless they are in writing, signed by all parties.
7. If one or more provisions of this Agreement are rendered unlawful or unenforceable, the remaining provisions will remain in full force and effect.
8. This Agreement becomes effective on the day it is signed by the District Director of the San Jose District Office (the "Effective Date") unless the Regional Director or Director of OFCCP indicates otherwise within 45 calendar days of the date the District Director signs the Agreement.
9. This Agreement will expire sixty (60) days after iCAN submits the final progress report required in Part IV below, unless OFCCP notifies iCAN in writing prior to the expiration date that ICAN has not fulfilled all of its obligations under the Agreement, in which case the Agreement is automatically extended until the date that OFCCP determines ICAN has met all of its obligations under the Agreement.
10. If iCAN violates this Conciliation Agreement,
 - A. The procedures set forth at 41 C.F.R. § 60-1.34 will govern:
 - 1) If OFCCP believes that iCAN violated any term of the Agreement while it was in effect, OFCCP will send ICAN a written notice stating the alleged violations and summarizing any supporting evidence.
 - 2) iCAN will have 15 days from receipt of such notice to demonstrate in writing that it has not violated the Conciliation Agreement, unless such a delay would result in irreparable injury to the employment rights of affected employees or applicants.
 - 3) If iCAN 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.

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

B. iCAN may be subject to the sanctions set forth in Section 209 of the Executive Order, 41 C.F.R. § 60-741.66, 41 C.F.R. § 60-300.66 and/or other appropriate relief for violation of this Agreement.

PART III. SPECIFIC VIOLATIONS AND REMEDIES

1. 41 CFR § 60-300.40(b) – AFFIRMATIVE ACTION PROGRAM – VEVRAA

STATEMENT OF VIOLATION: During the period of January 1, 2017 through December 31, 2017, iCAN failed to prepare and maintain an affirmative action program (AAP) for protected veterans in violation of 41 CFR § 60-300.40(b). Accordingly, iCAN failed to comply with any of its AAP obligations set forth in Subpart C of the regulations, 41 CFR § 60-300.40-45.

REMEDY: iCAN will agree to prepare and maintain an affirmative action program for protected veterans. The AAP shall set forth iCAN's policies and procedures in accordance with 41 CFR § 300.40-45. This AAP may be integrated into or kept separate from other AAPs. iCAN will review and update annually its AAP pursuant to 41 CFR § 300.40(c), and must comply with all obligations set forth in Subpart C of the regulations, 41 CFR § 300.40-45.

2. 41 CFR § 60-741.40(b) – AFFIRMATIVE ACTION PROGRAM – Sec 503

STATEMENT OF VIOLATION: During the period of January 1, 2017 through December 31, 2017, iCAN failed to prepare and maintain an affirmative action program (AAP) for individuals with disabilities in violation of 41 CFR § 60-741.40(b). Accordingly, iCAN failed to comply with any of its AAP obligations set forth in Subpart C of the regulations, 41 CFR § 60-741.40-45.

REMEDY: iCAN will agree to prepare and maintain an affirmative action program for individuals with disabilities. The AAP shall set forth iCAN's policies and procedures in accordance with 41 CFR § 741.40-45. This AAP may be integrated into or kept separate from other AAPs. iCAN will review and update annually its AAP pursuant to 41 CFR § 741.40(c), and must comply with all obligations set forth in Subpart C of the regulations, 41 CFR § 741.40-45.

3. 41 CFR § 60-2.17(d) – INTERNAL AUDIT AND REPORTING – EO 11246

STATEMENT OF VIOLATION: During the period of January 1, 2017 through December 31, 2017, iCAN failed to develop and implement an Internal Audit and Reporting system that periodically measures the effectiveness of its total affirmative action program in accordance with the requirements of 41 CFR § 60-2.17(d).

OFCCP'S SPECIFIC VIOLATION: iCAN did not plan, develop and execute an Internal Audit and Reporting system to periodically measure the effectiveness of its total affirmative action program. When requested to submit evidence of having planned and conducted an internal audit and reporting system, iCAN failed to submit any documentary evidence indicating an internal audit had been conducted.

REMEDY: iCAN will agree to will plan, develop and implement an internal auditing system periodically measuring the effectiveness of its total affirmative action program. iCAN will ensure that these actions, including monitoring records of personnel activity to ensure nondiscrimination, internal reporting on equal employment opportunity objectives, reviewing report results with management and advising top management of program effectiveness with recommendations to improve unsatisfactory performance, are conducted.

4. 41 CFR § 60-300.44(h) – INTERNAL AUDIT AND REPORTING – VEVRAA

STATEMENT OF VIOLATION: During the period of January 1, 2017 through December 31, 2017, iCAN failed to develop and implement an Internal Audit and Reporting system that periodically measures the effectiveness of its affirmative action program (AAP) in accordance with the requirements of 41 CFR § 60-300. 44(h) – VEVRAA.

OFCCP'S SPECIFIC VIOLATION: iCAN did not design and implement an audit and reporting system that measured the effectiveness of its VEVRAA affirmative action program regarding the recruitment and hiring of qualified veterans or its compliance with the programs specific obligations as indicated in their AAP. iCAN did not appropriately document and retain as company records the actions taken to comply. When requested to submit evidence of having planned and conducted an internal audit and reporting system, iCAN failed to submit documentary evidence indicating an internal audit had been conducted.

REMEDY: iCAN will undertake the necessary action to plan, develop and implement an internal auditing system periodically measuring the effectiveness of its VEVRAA affirmative action program to recruit and hire qualified Veterans. iCAN will ensure that these actions, including monitoring records of personnel activity to ensure nondiscrimination, internal reporting on equal employment opportunity objectives, reviewing report results with management and advising top management of program effectiveness with recommendations to improve unsatisfactory performance, are conducted.

5. 41 CFR § 60-741.44(h) – INTERNAL AUDIT AND REPORTING – Section 503

STATEMENT OF VIOLATION: During the period of January 1, 2017 through December 31, 2017, iCAN failed to develop and implement an Internal Audit and Reporting system that periodically measures the effectiveness of its affirmative action program in accordance with the requirements of 41 CFR § 60-741. 44(h) - Section 503, Individuals With Disabilities.

OFCCP'S SPECIFIC VIOLATION: iCAN did not plan, develop and execute an Internal Audit and Reporting system to periodically ensure its recruitment, hiring and employment activities were free from discrimination or stereotyping of qualified Individuals With Disabilities, measure the effectiveness of its AAP, determine the degree to which its objectives had been attained, measure its compliance with its AAP's specific obligations or document its findings. When requested to submit evidence of having planned and conducted an internal audit and reporting system, iCAN failed to submit any documentation indicating an internal audit had been conducted and its results.

REMEDY: iCAN will undertake the necessary action to plan, develop and implement an internal auditing system periodically measuring the effectiveness of its Section 503 affirmative action program to recruit and hire qualified individuals with disabilities. iCAN will ensure that these actions, including monitoring records of personnel activity to ensure nondiscrimination, internal reporting on equal employment opportunity objectives, reviewing report results with management and advising top management of program effectiveness with recommendations to improve unsatisfactory performance, are conducted.

6. 41 CFR § 60-300.44(f) – OUTREACH AND RECRUITMENT - VEVRAA

STATEMENT OF VIOLATION. During the period of January 1, 2017 through December 31, 2017, iCAN failed to undertake appropriate outreach and positive recruitment activities that were reasonably designed to effectively recruit qualified protected veterans, document these activities, assess their effectiveness, and document its review, in violation of 41 CFR 60–300.44(f)(2).

OFCCP'S SPECIFIC VIOLATION: iCAN did not enter into formal, written relationships with organizations capable of referring qualified veterans, work with veteran's counselors or coordinators at local colleges and universities able to identify qualified veteran candidates for recruitment and hiring, participate in job fairs targeting veterans, or conduct any other acceptable outreach activities. iCAN's AAP, Section XIII, page 15, indicated using their company's internal controls assessment team (ICAT) to conduct an internal audit regarding the potential underutilization of veterans. iCAN's ICAT identified 'underutilizing veterans' as a 'problem area' and the finding annotated in their AAP. However, iCAN was unable to produce documentation indicating they had acted on the ICAT's findings and undertook the appropriate external outreach and positive recruitment activities to ameliorate the underutilization of veterans.

REMEDY: iCAN will undertake appropriate external outreach and positive recruitment activities that are reasonably designed to effectively recruit qualified protected veterans, such as those described at 41 CFR § 60-300.44(f)(2). ICAN will annually review its outreach and recruitment activities, assess their effectiveness, and document this review, in accordance with 41 CFR § 60-300.44(f) (3). ICAN will document all activities it undertakes to comply with this section, in accordance with 41 CFR § 60-300.44(f) (4). Examples of additional types of outreach and positive recruitment include, but are not limited to:

- Entering into formal, written relationships with organizational to accomplish specified objectives, such as training, and/or referring job applicants with work experience of job skills matching or are related to existing and anticipated job vacancies;
- Creating internship programs for student veterans from local colleges and universities, and;
- Participating in job fairs targeting veterans.

7. 41 CFR § 41 CFR § 60-300.44(j) - TRAINING

STATEMENT OF VIOLATION. During the period of January 1, 2017 through December 31, 2017, iCAN failed to provide evidence they planned and conducted training of personnel involved in the recruitment, screening, selection, promotion, disciplinary, and related processes to ensure that the commitments in iCAN's affirmative action program are implemented, in violation of 41 CFR § 60-300.44(j).

OFCCP'S SPECIFIC VIOLATION: iCAN did not train all employees involved in the recruitment, screening, selection, promotion, disciplinary, and related processes regarding recruitment, employment, placement, promotion, and other personnel actions to ensure that the commitments in iCAN's affirmative action program were implemented. When requested to submit evidence iCAN planned and conducted training, the respondent submitted copies of Equal Opportunity Training provided employees and other members of management; however, they failed to provide any evidence iCAN conducted training of personnel on Affirmative Action.

REMEDY: iCAN will train all employees involved in the recruitment, screening, selection, promotion, disciplinary, and related processes to ensure that the commitments in iCAN's affirmative action program are implemented in accordance with 41 CFR § 60-300.44(j). iCAN must document this training.

PART IV. REPORTS REQUIRED

iCAN will submit two (2) reports and documents as described below to: OFCCP, Lynda Sakseangvirat, District Director, San Jose District Office, Pacific Region, at 300 Ala Moana Blvd., Room 7-227, P.O. Box 50149, Honolulu, HI 96850. iCAN agrees to retain records pertinent to the violations cited in Part III above and to the reports submitted in compliance with

Paragraph 3, below. These records shall include data and information underlying the required reports, specifically, but not limited to all applications and personnel records. The records will be retained until the expiration of this Agreement or consistent with regulatory requirements, whichever is later.

<u>A. REPORTS DUE DATE</u>	<u>PERIOD COVERED</u>
November 14, 2019	April 14, 2019 – October 14, 2019
May 14, 2020	October 14, 2019 – April 14, 2020

B. Each report (except where indicated otherwise) shall include at least:

1. Violation #1: iCAN will prepare and submit an affirmative action program for protected veterans. The AAP shall set forth iCAN's policies and procedures in accordance with 41 CFR § 300.40-45. This AAP may be integrated into or kept separate from other AAPs. iCAN will review and update annually its AAP pursuant to 41 CFR § 300.40(c) and must comply with all obligations set forth in Subpart C of the regulations, 41 CFR § 300.40-45 (**First Report Only**):

- A. 41 CFR 60-300.40(b) – Prepare and maintain an AAP for covered veterans;
- B. 41 CFR 60-300.41 – Availability of the AAP; Location and hours available upon request by any employee or applicant;
- C. 41 CFR 60-300.42 – Invitation to self-identify; pre-offer and post offer
- D. 41 CFR 60-300.43 – Affirmative Action policy
- E. 41 CFR 60-300.44 – Contents of Affirmative Action Program:
 - 1. Policy Statement
 - 2. Review of personnel processes
 - 3. Physical and mental qualification
 - 4. Reasonable accommodation to physical and mental limitations
 - 5. Harassment
 - 6. External dissemination of policy, outreach and positive recruitment
 - 7. Internal dissemination of policy
 - 8. Audit and reporting system
 - 9. Responsibility for implementation
 - 10. Training
 - 11. Data collection analysis:
 - a. Number of applicants who self-identified as protected veterans;
 - b. Total number of job openings;
 - c. Total number of applicants for all jobs;
 - d. The number of protected veteran applicants hired; and

- e. The total number of applicants hired
 - F. 41 CFR 60-300.45 – Benchmarks for hiring
2. Violation #2: iCAN will prepare and submit an affirmative action program for individuals with disabilities. The AAP shall set forth iCAN's policies and procedures in accordance with 41 CFR § 741.40-45. This AAP may be integrated into or kept separate from other AAPs. iCAN will review and update annually its AAP pursuant to 41 CFR § 741.40(e), and must comply with all obligations set forth in Subpart C of the regulations, 41 CFR § 741.40-45 (**First Report Only**):
- A. 41-CFR 60-741-40(b) - Prepare and maintain an AAP for covered individuals with disabilities;
 - B. 41 CFR 60-741-41 - Availability of the AAP; Location and hours available upon request by any employee or applicant;
 - C. 41 CFR 60-741-42 - Invitation to self-identify; pre-offer and post offer
 - D. 41 CFR 60-741-43 - Affirmative Action policy
 - E. 41 CFR 60-741-44 - Contents of Affirmative Action Program:
 1. Policy Statement
 2. Review of personnel processes
 3. Physical and mental qualification
 4. Reasonable accommodation to physical and mental limitations
 5. Harassment
 6. External dissemination of policy, outreach and positive recruitment
 7. Internal dissemination of policy
 8. Audit and reporting system
 9. Responsibility for implementation
 10. Training
 11. Data collection analysis:
 - a) Number of applicants who self-identified as protected veterans;
 - b) Total number of job openings;
 - c) Total number of applicants for all jobs;
 - d) The number of protected veteran applicants hired; and
 - e) The total number of applicants hired
 - F. 41 CFR 60-741.45 – Utilization goals
3. Violation #3: Evidence that iCAN developed and implemented an auditing system that monitors the effectiveness of its total affirmative action program under EO 11246. The reports should prove that the following actions were taken:
- a) Monitoring records of personnel activity to ensure the nondiscriminatory policy is carried out;
 - b) Internal reporting on a scheduled basis as to the degree to which equal employment opportunity and organizational objectives are attained;
 - c) Documentation showing report results were reviewed with all levels of

- management;
 - d) Evidence that senior management was advised of the program's effectiveness and received recommendations to improve unsatisfactory performance.
4. Violation #4: Evidence that iCAN developed and implemented an auditing system that monitors the effectiveness of its total affirmative action program to recruit and hire qualified veterans under VEVRAA. The reports should prove that iCAN undertook the necessary action to design and implement an appropriate audit and reporting system that:
- a) Measured the effectiveness of iCAN's protected veterans AAP;
 - b) Indicated any need for remedial action;
 - c) Determined the degree to which iCAN's objectives were attained;
 - d) Determined whether known protected veterans have the opportunity to participate in all company sponsored educational, training, recreational and social activities;
 - e) Measured iCAN's compliance with the AAP's specific obligations, and;
 - f) Documented actions taken to comply with above (a-e) and retained these documents as employment records.
5. Violation #5: Evidence that iCAN developed and implemented an auditing system that monitors the effectiveness of its total affirmative action program to recruit and hire qualified individuals with disabilities under Sec 503. The reports should prove iCAN undertook the necessary action to design and implement an appropriate audit and reporting system that:
- a) Measured the effectiveness of iCAN's protected Section 503 AAP;
 - b) Indicated any need for remedial action;
 - c) Determined the degree to which iCAN's objectives were attained;
 - d) determined whether known protected IWD have the opportunity to participate in all company sponsored educational, training, recreational and social activities;
 - e) Measured iCAN's compliance with the AAP's specific obligations, and;
 - f) Documented actions taken to comply with above (a-e) and retained these documents as employment records.
6. Violation #6: A report that includes specific documentation showing that iCAN undertook appropriate outreach and positive recruitment activities reasonably designed to effectively recruit qualified protected veterans and assessed the effectiveness of those activities at least annually. See 41 CFR 60-300.44(f) for required outreach efforts. **(The submission of the documentation of all outreach and recruitment is required for both reports but the assessment of veteran outreach is only required for the second report).**

- a) Evidence iCAN established stakeholder relationships with recruitment organizations designed to recruit veterans;
- b) A current file of the name, address, telephone numbers, sex, race, and ethnicity of each veteran applicant or referral from a recruitment source or community organization, and;
- c) The results of any such veteran applicants or referrals including but not limited to: (a) whether the referral was interviewed, extended a job offer, and/or rejected; and, (b) detailed reasons why the referral was not interviewed and/or was rejected.

7. Violation #7: Evidence that iCAN conducted and documented training to ensure its AAP is implemented and all personnel involved in the recruitment, screening, selection, promotion, disciplinary, and related processes are appropriately trained in accordance with 60-300.44(j) and 60-741.44(j).

C. iCAN will retain all records and data pertinent to the violations resolved by this Agreement and/or used to prepare required reports until this Agreement expires or as long as required by OFCCP's regulations, whichever date occurs later.

PART V. SIGNATURES

This Conciliation Agreement is hereby executed by and between the Office of Federal Contract Compliance Programs and Quality General, Inc.

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

Ms. Laura Espinosa
iCAN Resources
520 Chorito Blvd, Ste 201
Asan, Guam 96910

DATE: 30 APR 2019

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

(b) (7)(C), (b) (7)(E)
Compliance Officer
Guam Field Office
Pacific Region

DATE: 7 MAY 2019

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

Lynda C. Sakseangvirat
District Director
San Jose, Hawaii Area, and Guam Field Offices

DATE: 05/07/2019