

**CONCILIATION AGREEMENT
BETWEEN
THE U. S. DEPARTMENT OF LABOR
OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS
AND
Open Access Technology International, Inc.
3660 Technology Drive NE
Minneapolis, MN 55418
R00209001**

PART I: GENERAL PROVISIONS

1. This Agreement is between the Office of Federal Contract Compliance Programs (OFCCP) and Open Access Technology International, Inc. (OATI), located at 3660 Technology Drive NE, Minneapolis, MN 55418.
2. The violations identified in this Agreement were found during a compliance evaluation of OATI that began on September 28, 2018, and were specified in a Notice of Violations (NOV) issued on June 5, 2019. OFCCP alleges that OATI has violated Executive Order 11246, as amended ("EO 11246"), Section 503 of the Rehabilitation Act of 1973, as amended (Section 503), 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 OATI's Affirmative Action Program (AAP). Subject to the performance by OATI of all promises and representations contained herein and in its AAP, all named violations in regard to the compliance of OATI with all OFCCP programs will be deemed resolved. However, OATI 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. OATI agrees that OFCCP may review compliance with this Agreement. As part of this 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 OATI's compliance. OATI shall permit access to its premises during normal business hours for these purposes.
5. Nothing herein is intended to relieve OATI from the obligation to comply with the requirements of Executive Order 11246, as amended, Section 503 of the Rehabilitation Act of 1973, as amended, and/or the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended (38 U.S.C. 4212), their implementing regulations, or any other equal employment statute or executive order or its implementing regulations.
6. OATI 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/or the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended (38 U.S.C. 4212).

7. This Agreement becomes effective on the day it is signed by the District Director of the Chicago District Office (the "Effective Date").
8. If at any time in the future, OFCCP believes that OATI has violated any portion of this Agreement during the term of this Agreement, OATI 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 OATI 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 OATI 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 OATI to sanctions set forth in Section 209 of the Executive Order, 41 CFR 60-300.66 and/or 41 CFR 60-741.66 and/or other appropriate relief.

PART II: SPECIFIC PROVISIONS

1. **Violation:** During the period January 1, 2017, through December 31, 2018, OATI failed to accurately determine the percentage of the availability of minorities and women for each job group in violation of 41 CFR 60-2.14. Specifically, there were inaccuracies in calculating the external availability factor and the internal availability factor, as well as how these two factors were weighted in determining the final availability metrics for minorities and women.

Remedy: OATI will accurately determine the percentage of the availability of minorities and women for each job group in accordance with 41 CFR 60-2.14
2. **Violation:** During the period January 1, 2017, through September 30, 2018, OATI failed to invite its employees and applicants for employment to voluntarily self-identify as an individual with a disability, using the OMB-approved form for this purpose, in violation of 41 CFR 60-741.42. Specifically, OATI failed to use the approved form, Form CC-305.

Remedy: OATI will invite both its applicants for employment, and its employees, to voluntarily self-identify as an individual with a disability, in accordance with 41 CFR 60-741.42. All invitations to self-identify will be made using the OMB-approved form for this purpose (available on the OFCCP website).

More specifically, OATI will invite each of its applicants for employment, prior to an offer of employment, to voluntarily inform it whether the applicant believes that he or she is an individual with a disability, as that term is defined in 41 CFR 60-741.2(g)(1)(i) or (ii). OATI will also invite each of its applicants for employment, after an offer of employment has been made and before the applicant begins work, to voluntarily inform it whether the applicant believes that he or she is an individual with a disability. In addition, during the first year it is subject to this requirement, OATI will invite each of its employees to voluntarily self-identify as an individual with a disability, and then extend this invitation again at five year intervals, thereafter. At least once during each interval, OATI will remind its employees that they may voluntarily update their disability-related self-identification information at any time. OATI will keep all self-identification information confidential and maintain it in a separate data analysis file, rather than in its personnel or medical files, in accordance with 41 CFR 60-741.42(e).

OATI commits that these violations will not recur.

PART III: REPORTING PROVISIONS

1. OATI agrees to retain records pertinent to the violations cited in Part II above, and to the reports submitted in compliance with Paragraph 2 below. These records shall include data and/or information underlying the required reports, specifically, but not limited to all applications and personnel records. These records will be retained until the expiration of the Agreement or consistent with regulatory requirements, whichever is later.
2. OATI agrees to furnish OFCCP's Chicago District Office, Attention: Michael Thomas, 230 S. Dearborn Street, Room 434, Chicago, IL 60604 with the following reports:

The first report shall be due no later than September 15, 2019, shall cover the period from the effective date of this Agreement through August 31, 2019, and shall include, pursuant to Violation 2, copies of completed self-identification forms completed by applicants during the reporting period, using the required OMB-approved form, and indicating both the pre- and post-offer opportunity for the applicant to self-identify their status as an individual with disability.

The second report shall be due no later than February 15, 2020, shall cover the period from September 1, 2019, through January 31, 2020, and shall include:

- a. Pursuant to Violation 1, OATI's analysis of the availability of minorities and females for each job group effective on January 1, 2020, at the start of the company's next affirmative action program (AAP). This analysis will include calculations for each job group for the external availability factor, the internal availability factor, and how these two factors were weighted in determining the final availability metrics for minorities and women.
 - b. Pursuant to Violation 2, copies of completed self-identification forms completed by applicants during the reporting period, using the required OMB-approved form, and indicating both the pre- and post-offer opportunity for the applicant to self-identify their status as an individual with disability.
3. This Conciliation Agreement shall remain in effect until the review and acceptance by OFCCP of OATI's final progress report.

TERMINATION DATE: This Agreement will expire 60 days after the OFCCP receives the report required in Part III above or on the date that the District Director gives notice to OATI that OATI has satisfied its reporting requirements, whichever occurs earlier, unless OFCCP notifies OATI in writing prior to the end of the 60-day period that OATI has not satisfied its reporting requirements pursuant to this Agreement.

INTEGRATION CLAUSE: This Agreement represents the full Agreement between OATI and OFCCP and this Agreement supersedes any other agreements, oral or written. In signing this Agreement, neither OATI 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 OATI personally warrants he/she is fully authorized to do so, that OATI has entered into this Conciliation Agreement voluntarily and with full knowledge of the effect thereof, and that execution of this Agreement is fully binding on OATI. This Conciliation Agreement is hereby executed by and between the Office of Federal Contract Compliance Programs and OATI.

06/11/2019
DATE
(b) (6), (b) (7)(C)
Yvonne Dilts
Associate Vice President Personnel Services
Open Access Technology International, Inc.
3660 Technology Drive NE
Minneapolis, MN 55418

6/18/2019
DATE
(b) (6), (b) (7)(C)
(b) (7)(C), (b) (7)(E)
Compliance Officer
Office of Federal Contract
Compliance Programs
Chicago District Office

6/18/2019
DATE
(b) (6), (b) (7)(C)
Adam Young
Assistant District Director
Office of Federal Contract
Compliance Programs
Chicago District Office

6/18/2019
DATE
(b) (6), (b) (7)(C)
Michael J. Thomas
District Director
Office of Federal Contract
Compliance Programs
Chicago District Office