

SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT (the "Agreement") is entered into by and between American CyberSystems, Inc. d/b/a ACS Solutions and d/b/a Innova Solutions ("Respondent"), and the United States Department of Justice, Civil Rights Division, Immigrant and Employee Rights Section ("IER") (together, "the Parties").

I. BACKGROUND

WHEREAS, on January 10, 2022, IER notified Respondent, then d/b/a ACS Solutions, by letter that it had initiated an independent investigation pursuant to 8 U.S.C. § 1324b(d)(1), identified as DJ# 197-19-312 (the "IER Investigation"), to determine whether Respondent had engaged in any unfair employment practices prohibited under the anti-discrimination provision of the Immigration and Nationality Act, 8 U.S.C. § 1324b ("Act");

WHEREAS, the IER Investigation determined that there is reasonable cause to believe that Respondent discriminated against individuals based on their citizenship status with respect to hiring and recruitment or referral for a fee in violation of 8 U.S.C. § 1324b(a)(1). Specifically, IER determined that on at least one occasion in 2021, Respondent explicitly advertised for and sought applicants with temporary H-1B work visas and prior work on H-1B status in the United States for potential employment with the company. Further, IER determined that on at least one separate occasion in 2021, Respondent, in its role as a recruiter or referrer for a fee, sought only U.S. citizens and lawful permanent residents for a position it believed to be regulated by the International Traffic in Arms Regulation (ITAR) and Export Administration Regulations (EAR), thereby unlawfully excluding U.S. nationals, refugees and asylees who also were employable without need for a license under ITAR and EAR regulations;

WHEREAS, during or after the Investigation, American CyberSystems, Inc., rebranded to do business as Innova Solutions;

WHEREAS, Respondent denies that it discriminated against individuals based on their citizenship status with respect to hiring and recruitment or referral for a fee in violation of 8 U.S.C. § 1324b(a)(1), and by entering into this Agreement, does not admit and expressly denies that it violated 8 U.S.C. § 1324b or any other federal, state, or local statute, regulation or law;

WHEREAS, Respondent enters into this Agreement to address the IER Investigation, which, in Respondent's view, identified two isolated problematic advertisements but did not determine there was a pattern or practice of unlawful discrimination, and voluntarily agrees to the proactive measures described in this Agreement, many of which it already takes, as part of its commitment to a diverse and inclusive workplace free of unlawful discrimination;

WHEREAS, the Parties wish to resolve the IER Investigation without further delay or expense, and to avoid the uncertainty and costs of litigation, and hereby acknowledge that they are voluntarily entering into this Agreement;

NOW, THEREFORE, in consideration of the mutual promises contained below and to fully and finally resolve the IER Investigation as of the date of the latest signature below, the Parties agree as follows:

II. TERMS OF SETTLEMENT

1. This Agreement becomes effective as of the date of the latest signature on the dually-signed Agreement, which date is referenced herein as the "Effective Date." The "term of this Agreement" shall be 24 months following the Effective Date.
2. Respondent shall pay a civil penalty to the United States Treasury in the amount of \$8,288.
3. Respondent shall provide IER with the name, title, email address, and telephone number of the individual responsible for effectuating payment of the civil penalties described in paragraph 2 above no later than seven days after the Effective Date. Respondent shall pay the monies discussed in paragraph 2 via the FedWire electronic fund transfer system within 14 days after receiving fund transfer instructions from IER. On the day of payment, Respondent shall send confirmation of the payment to Michael.Cowles@usdoj.gov. The email confirming payment shall have Respondent's name and the investigation number, DJ # 197-19-312, in the subject line.
4. In accordance with 8 U.S.C. § 1324b, Respondent, whether directly or through its recruiters, contractors, or agents, shall not discriminate on the basis of citizenship, immigration status or national origin in violation of 8 U.S.C. § 1324b(a)(1), including not discriminating in its job postings, advertisements, recruitment activities, and consideration of applicants for referral, hiring or firing on the basis of citizenship status or immigration status except as required to comply with a law, regulation, executive order, government contract, or Attorney General directive. Respondent shall not intimidate, threaten, coerce, or retaliate against any person for participating in the IER Investigation or exercising any right or privilege secured by 8 U.S.C. § 1324b.
5. Respondent has created a single job posting template for all of its job postings to follow, which includes the following language but shall be modified as needed to substitute or include any other d/b/a name Respondent uses: "Innova Solutions, [OR FILL IN OTHER NAME THE COMPANY USES FOR AN ADVERTISEMENT] does not discriminate against applicants based on citizenship status, immigration status, or national origin, in accordance with 8 U.S.C. § 1324b." Within thirty (30) days after the Effective Date of this Agreement, Respondent shall provide this template to all of its employees, agents,

and contractors with any role in drafting, reviewing, disseminating and/or publishing advertisements for U.S. workers (collectively, "Recruiting Personnel") and train them that they are required to use it for all job postings.

6. For the term of this Agreement, to the extent it has not already done so, Respondent shall require as a matter of policy and practice that everyone who posts a job for the Company include the above-referenced language in every posting, regardless of whether the solicited employment is with Respondent directly or for a position with a third party. Moreover, for the term of this Agreement, Respondent will conduct regular audits to ensure that the above-referenced language is included in all job postings, and if it finds that any job posting that does not include the language, it will counsel in writing the individual who made the posting and promptly re-train the individual regarding this requirement. Respondent will produce the results of these audits to IER upon request.
7. Within 120 days after the Effective Date and within each 120-day period thereafter during this Agreement, IER may request all advertisements published by or on behalf of Respondent and/or its Recruiting Personnel during a period of five consecutive days that IER designates. No later than thirty (30) days after Respondent receives IER's request, Respondent shall (1) identify all websites and other online portals where Respondent and/or its Recruiting Personnel have posted a job advertisement or other solicitation of interest in employment opportunities during the days IER identifies; and (2) provide, for each such ad or solicitation, the full ad title that appeared online, the body of the ad as Respondent submitted it to the website or portal, and if different from what was posted, the full ad as it appeared on the website or portal. Within fifteen (15) days after receiving each response, IER may notify Respondent of any concerns raised by the report, and Respondent shall use its reasonable efforts to resolve such concerns within fifteen (15) days following IER's notice.
8. Within sixty (60) days after the Effective Date, Respondent shall create or revise, and implement policies that relate to nondiscrimination based on citizenship status, immigration status and national origin in all aspects of the hiring process, including recruiting pursuant to 8 U.S.C. § 1324b, as set forth below, to the extent it has already not done so, and provide the final revised policies to IER for approval. IER shall review such policies and provide modifications only to ensure consistency and compliance with 8 U.S.C. § 1324b and this Agreement, and Respondent shall implement the IER-approved policies within 30 days of IER approval:
 - (a) prohibit discrimination on the basis of citizenship, immigration status, and national origin in the hiring, firing, and recruitment process, in accordance with 8 U.S.C. § 1324b;

- (b) prohibit advertisements, whether for employment with Respondent or for recruitment or referral for a fee to a third party, that reference a particular citizenship, immigration status, and/or national origin, including but not limited to posting advertisements that solicit applicants with a specific immigration status, citizenship status, or visa category, unless Respondent has verified that the citizenship status restriction in fact is required by law pursuant to 8 U.S.C. 1324b(a)(2)(C);
 - (c) make clear that neither the ITAR nor the EAR refer to or addresses hiring requirements or practices. These regulations therefore do not require limiting jobs to only U.S. citizens or people with other immigration statuses. Instead, the policies shall make clear that the ITAR and the EAR only require employers to seek and obtain authorization from the State Department and Commerce Department respectively before allowing a worker to access information governed by the ITAR and the EAR if the worker is not a U.S. citizen, non-citizen national, lawful permanent resident, asylee, or refugee;
 - (d) include citizenship status, immigration status, and national origin as prohibited bases of discrimination in any Equal Employment Opportunity (EEO) statements Respondent includes in printed or electronic materials it makes directly available to the public or employees, or that it sends to third-parties for publication;
 - (e) inform applicants who believe they have been discriminated against because of their citizenship that they have the right to contact the Immigrant and Employee Rights Section and provide them IER's worker hotline and website; and
 - (f) prohibit any reprisal action against an employee for having opposed any employment practice made unlawful by 8 U.S.C. § 1324b, or for filing any charge, or participating in a lawful manner in any investigation or action under 8 U.S.C. § 1324b.
9. Should Respondent make any additional revisions to the policies or practices described in paragraph 8 during the term of this Agreement, within 10 days Respondent shall provide IER a copy of said revisions for IER's review and approval for compliance with 8 U.S.C. §132b. IER shall provide comments regarding any changes necessary to comply with 8 U.S.C. § 1324b and this Agreement, or transmit its approval, no later than twenty-one (21) days from IER's receipt of the revisions from Respondent.
10. Within ninety (90) days after the Effective Date, Respondent shall ensure that all Recruiting Personnel attend an IER webinar, consistent with the following provisions:

- (a) The training will consist of viewing a live, free “IER Employer/HR Representative” webinar presentation with registration available at <https://www.justice.gov/crt/webinars>;
 - (b) All Recruiting Personnel will be paid their normal rate of pay, and the training will occur during their normally scheduled workdays and work hours. Respondent shall bear all of its costs associated with these training sessions;
 - (c) For each training session that Respondent’s Recruiting Personnel attend as required under this paragraph, Respondent shall certify to IER no later than 30 days following the session that the training has been completed, the number of Recruiting Personnel who completed the training, and the names and job titles of the individuals who completed the training. Respondent shall send this certification via email to Michael.Cowles@usdoj.gov, as well as any other individual IER designates. The emails transmitting these certifications shall have Respondent’s name and the investigation number, DJ # 197-19-312, in the subject line. Respondent shall also compile, and retain during the term of this Agreement, attendance records listing the Recruiting Personnel who attend the training(s), including their name, job title, and the date(s) of the training, and shall provide these attendance records to IER upon reasonable request.
11. Unless already posted in compliance with E-Verify requirements, Respondent shall post an English and Spanish version of the IER “If You Have The Right to Work” poster (“IER Poster”), in color and measuring no smaller than 8.5” x 11”, an image of which is available at <https://www.justice.gov/crt/worker-information#poster>, in all places where notices to employees and job applicants are normally posted. Respondent shall post the IER Poster and link within thirty (30) days after the Effective Date of this Agreement and it will remain posted for the term of this Agreement.
12. If IER has reason to believe that Respondent is in violation of any provision of this Agreement, IER may, in its sole discretion, notify Respondent of the purported violation rather than initiate a new discrimination investigation or seek to judicially enforce the Agreement. If IER has exercised its discretion to notify Respondent of the purported violation, Respondent shall have 30 days from the date IER notifies it of the purported violation(s) to cure the violation(s) to IER’s satisfaction.
13. This Agreement resolves any and all differences under 8 U.S.C. § 1324b between the Parties relating to the IER Investigation DJ# 197-19-312 through the Effective Date. Absent any later discovered evidence that Respondent intentionally

withheld evidence of additional discriminatory job postings during the IER investigation, IER shall not seek from Respondent any additional civil penalty, beyond that referenced in paragraph 2, for the alleged, and disputed, citizenship discrimination in violation of 8 U.S.C. § 1324b that was the subject of the IER Investigation through the Effective Date

14. This Agreement does not affect the right of any individual to file a charge under the Act alleging an unfair immigration-related employment practice against Respondent, IER's authority to investigate Respondent or file a complaint on behalf of any such individual, or IER's authority to conduct an independent investigation of Respondent's employment practices occurring after the Effective Date or outside of the scope of the IER Investigation. Nothing in this Agreement limits IER's right to inspect Respondent's Forms I-9 pursuant to 8 C.F.R. § 274a.2(b)(2)ii.

III. ADDITIONAL TERMS OF SETTLEMENT

15. This Agreement sets forth the entire agreement between the Parties and fully supersedes any and all prior agreements or understandings between the Parties pertaining to the IER Investigation, DJ # 197-19-312. This Agreement is governed by the laws of the United States. This Agreement shall be deemed to have been drafted by both Parties and shall not be construed against any one party in the event of a subsequent dispute concerning the terms of the Agreement. The Parties agree that the paragraphs set forth in Part II of this Agreement (entitled "Terms of Settlement") are material terms.
16. The United States District Court for the Northern District of Georgia shall be the preferred venue for enforcement of any claims arising from this agreement over which that court has subject matter jurisdiction. This paragraph, or the initiation of a lawsuit to enforce the Agreement under this paragraph, including any counterclaims asserted, does not constitute and should not be construed as a waiver of sovereign immunity or any other defense the United States might have against a claim for enforcement.
17. Should any provision of this Agreement be declared or determined by any court to be illegal or invalid, the validity of the remaining parts, terms or provisions shall not be affected and the term or provision shall be deemed not to be a part of this Agreement. The Parties agree that they will not, individually or in combination with another, seek to have any court declare or determine that any provision of this Agreement invalid.
18. The Parties agree that, as of the Effective Date of this Agreement, litigation concerning the alleged violations of 8 U.S.C. § 1324b that IER investigated is not reasonably foreseeable. To the extent that either party previously implemented a litigation hold to preserve documents, electronically stored information, or things related to this matter, the party is no longer required to maintain such a litigation

hold. Nothing in this paragraph relieves either party of any other obligations imposed by this Agreement.

19. The Parties agree to bear their own costs, attorneys' fees and other expenses incurred in the IER Investigation.
20. This Agreement may be executed in multiple counterparts, each of which together shall be considered an original but all of which shall constitute one agreement. The Parties agree to be bound by electronic signatures.

American CyberSystems, Inc, d/b/a ACS Solutions and d/b/a Innova Solutions

By: Robert M. Lewis Jr. Dated: 5/10/23
Rich Escoffery
General Counsel

Robert M. Lewis, Jr.
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Immigrant and Employee Rights Section, U.S. Department of Justice

By: Alberto Ruisanchez Dated: 5-17-2023
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