

**UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
OFFICE OF THE CHIEF ADMINISTRATIVE HEARING OFFICER**

UNITED STATES OF AMERICA,)	
)	
COMPLAINANT,)	
)	
v.)	8 U.S.C. § 1324b PROCEEDING
)	OCAHO CASE NO. _____
TECHNICAL MARINE)	
MAINTENANCE TEXAS, LLC, AND)	
GULF COAST WORKFORCE, LLC,)	
)	
RESPONDENTS.)	
)	

COMPLAINT

Complainant, the United States of America, alleges as follows:

1. The Immigrant and Employee Rights Section of the Civil Rights Division of the U.S. Department of Justice brings this action on behalf of the United States (hereinafter “Complainant” or “the United States”) to enforce the provision of the Immigration and Nationality Act (“INA”) that prohibits workplace discrimination, 8 U.S.C. § 1324b.
2. Technical Marine Maintenance Texas, LLC (“TMM TX”), and Gulf Coast Workforce, LLC (“GCW”) (hereinafter jointly identified as “Respondents”) engaged in a pattern or practice of discrimination against job applicants and newly hired employees by requesting more or different documents than are required to prove work eligibility, on the basis of the individuals’ citizenship status, in violation of 8 U.S.C. § 1324b(a)(6).
3. Specifically, Respondents requested U.S. citizen applicants and newly hired employees to provide specific types of work authorization documents because of their status as U.S. citizens, while asking non-U.S. citizen applicants and newly hired employees to provide different specific types of work authorization documents because of their status as non-

U.S. citizens, for the employment eligibility verification (“EEV”) process required pursuant to 8 U.S.C. § 1324a(b).

JURISDICTION

4. Pursuant to 8 U.S.C. §§ 1324b(c)(2) and (d)(1), Complainant is authorized to conduct investigations of, and, if warranted, prosecute immigration-related unfair employment practices in violation of 8 U.S.C. § 1324b.
5. TMM TX is a Louisiana corporation with a corporate domicile located at 5437 West Park Avenue, Houma, Louisiana, 70364, and a principal place of business located at 1104 N. 16th St., Orange, Texas, 77630. TMM TX provides contract labor services to shipyards.
6. GCW is also a Louisiana corporation, with a corporate domicile also located at 5437 West Park Ave., Houma, Louisiana, 70364. GCW shares corporate leadership with TMM TX, including its Chief Executive Officer and Chief Operating Officer.
7. GCW holds itself out as the management company of TMM TX.
8. Respondents are persons or entities under 8 U.S.C. § 1324b(a)(6), 8 U.S.C. § 1101(b)(3), and 8 C.F.R. § 274a.1(b), that employed more than three employees at all times during the period of the immigration-related unfair employment practices described below.
9. On June 22, 2017 and July 12, 2017, the United States informed TMM TX and GCW by letter that the United States had determined that reasonable cause exists to believe that both TMM TX and GCW are liable for violations of 8 U.S.C. § 1324b(a)(6).
10. The United States files this Complaint with the Office of the Chief Administrative Hearing Officer pursuant to 8 U.S.C. § 1324b(e)(1).

BACKGROUND

11. In 1986, Congress amended the Immigration and Nationality Act to require employers to review documentation from each new employee to ensure that the employee is eligible to

work in the United States. 8 U.S.C. § 1324a(b).

12. Having created an EEV requirement through 8 U.S.C. § 1324a(b), Congress also amended the INA to protect work-authorized individuals from employment discrimination based on citizenship status and national origin.
13. Consistent with Congress' purpose, the INA's anti-discrimination provision prohibits a person or entity from subjecting individuals to citizenship and national origin status discrimination in, among other things, hiring and the EEV processes. 8 U.S.C. § 1324b(a)(1), (a)(6).
14. During the initial EEV process, new employees have a choice to present documentation establishing both identity and employment authorization (List A document), or a combination of an identity document (List B document) and an employment authorization document (List C document). *U.S. Citizenship and Immigration Services, Form I-9, Employment Eligibility Verification (Form I-9, Rev. 7/17/2017), p. 4.* ("Employees may present one selection from List A or a combination of one selection from List B and one selection from List C."); 8 C.F.R. § 274a.2(b)(1)(v).
15. An employer engages in an unfair-immigration-related employment practice in violation of 8 U.S.C. § 1324b(a)(6) if, for EEV purposes, it requests from an employee more, different, or specific documents, because of the employee's citizenship status or national origin. 8 U.S.C. § 1324b(a)(6); *see also* 28 C.F.R. § 44.200(a)(3).

STATEMENT OF FACTS

16. Respondents' verification of new TMM TX employees' employment eligibility occurs primarily at or through its office located at 1104 N. 16th St., Orange, Texas, 77630.

17. On March 16, 2012, TMM TX entered into a Memorandum of Understanding (MOU) with the Department of Homeland Security's E-Verify program. TMM TX has used E-Verify for the EEV process since entering into the MOU.
18. As part of its obligations under the MOU, TMM TX agreed that it would "become familiar with and comply with the most recent version of the E-Verify User Manual [M-775]."
19. The E-Verify User Manual states that "Employers participating in E-Verify **MUST NOT**: . . . Specify or request which Form I-9 documentation a newly hired employee must use." (emphasis in original).
20. Between January 1, 2014, and July 21, 2017, TMM TX hired approximately 678 U.S. citizens ("USCs") and 281 non-U.S. citizens ("non-USCs").
21. Between January 1, 2014, and July 21, 2017, TMM TX obtained List B and C documents from 99.56% of USCs.
22. During this same period, TMM TX obtained List A documents from 99.29% of non-USCs.
23. It was the standard operating procedure of TMM TX staff members who conducted the EEV process between January 1, 2014 and at least July 21, 2017, to obtain specific documents from applicants and newly hired employees on the basis of their citizenship status to complete the Form I-9 and submit queries to E-Verify. Specifically, these staff members stated in investigatory interviews that they requested certain documents from Lists B and C from USCs, and certain, different documents from List A from non-USCs.
24. The Chief Operating Officer of GCW, identified in that capacity, signed several Forms I-9 relating to employees of TMM TX.

COUNT I

PATTERN OR PRACTICE OF UNFAIR DOCUMENTARY PRACTICES AGAINST U.S. CITIZENS IN THE EMPLOYMENT ELIGIBILITY VERIFICATION PROCESS

25. Complainant incorporates by reference the allegations set forth in paragraphs 1 through 24 as if fully set forth herein.
26. Respondents' standard operating procedure from January 1, 2014, through at least July 21, 2017, was to request from USC's certain List B and C documents for EEV purposes based on their citizenship status as U.S. citizens.
27. Respondents' treatment of USC's, with respect to documents they requested for EEV purposes, was different from Respondents' treatment of non-USC's, and the difference was based on their citizenship status as USC's.
28. Respondents' actions towards USC's during the EEV process were intended to treat USC's differently from non-USC's based on their citizenship status, and constitute a pattern or practice of discriminatory unfair documentary practices in violation of 8 U.S.C. § 1324b(a)(6).
29. GCW is responsible for this pattern or practice of unfair documentary practices as the employer or joint employer of TMM TX's employees, including the staff members who conducted the EEV process.

COUNT II

PATTERN OR PRACTICE OF UNFAIR DOCUMENTARY PRACTICES AGAINST WORK AUTHORIZED NON-U.S. CITIZENS IN THE EMPLOYMENT ELIGIBILITY VERIFICATION PROCESS

30. Complainant incorporates by reference the allegations set forth in paragraphs 1 through 24 as if fully set forth herein.

31. Respondents' standard operating procedure from January 1, 2014, through at least July 21, 2017, was to request from work-authorized non-USCs certain List A documents for EEV purposes based on their citizenship status.
32. Respondents' treatment of non-USCs, with respect to documents they requested for EEV purposes, was different from Respondents' treatment of USCs, and the difference was based on their citizenship status as non-USCs.
33. Respondents' actions towards non-USCs during the EEV process were intended to treat them differently from USCs based on their citizenship status, and therefore constitute a pattern or practice of discriminatory unfair documentary practices in violation of 8 U.S.C. § 1324b(a)(6).
34. GCW is responsible for this pattern or practice of unfair documentary practices as the employer or joint employer of TMM TX's employees, including the staff members who conducted the EEV process.

REQUEST FOR RELIEF

THEREFORE, Complainant respectfully requests:

- A. That the Office of the Chief Administrative Hearing Officer assign an Administrative Law Judge to preside at a hearing on this matter as soon as practicable; and
- B. That the Administrative Law Judge grant the following relief:
 1. Order Respondents to cease and desist from the alleged illegal practices described in the complaint and take other appropriate measures to overcome the effects and prevent the recurrence of the discriminatory practices;
 2. Order Respondents to pay to the United States the maximum civil penalties authorized by law and shown to be warranted by the facts for each work-authorized

individual who is found to have been subjected to the discriminatory practices alleged in this complaint;

3. Order Respondents to pay back pay to, hire, and/or reinstate each work-authorized individual who is found to have been subjected to the discriminatory practices alleged in this complaint; and
4. Order such additional relief as justice may require.

Dated: July 25, 2017

Respectfully Submitted,

For the UNITED STATES OF AMERICA,

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By:



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