

CONCILIATION AGREEMENT

Between

THE U. S. DEPARTMENT OF LABOR

OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS

and

NAVISTAR DIESEL OF ALABAMA, LLC

PART I. PRELIMINARY STATEMENT

The Office of Federal Contract Compliance Programs ("OFCCP") commenced a complaint investigation and a compliance evaluation of Navistar Diesel of Alabama, LLC's (formerly known as "International Diesel of Alabama, LLC") (hereinafter "NAVISTAR DIESEL") establishment located at 646 James Record Road, Huntsville, Alabama on December 15, 2004 and April 19, 2006, respectively, and found that NAVISTAR DIESEL was not in compliance with the Executive Order 11246, as amended ("E.O. 11246"), and its implementing regulations at 41 C.F.R. Section 60-1. OFCCP notified NAVISTAR DIESEL of the initial violations found and the corrective actions required in a Notice of Result of Investigation issued on May 14, 2008, and a Notice of Violation issued on June 16, 2010. 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 NAVISTAR DIESEL enter this contract ("Conciliation Agreement" or "Agreement") and agree to all the terms stated below.

PART II. GENERAL TERMS AND CONDITIONS

1. In exchange for NAVISTAR DIESEL'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 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 NAVISTAR DIESEL violates this Agreement. Nothing in this Agreement precludes OFCCP from initiating enforcement proceedings based on future compliance evaluations or complaint investigations.
2. NAVISTAR DIESEL 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. NAVISTAR DIESEL will permit access to its premises during normal business hours for these purposes and will provide OFCCP with all reports and documents requested.

3. NAVISTAR DIESEL understands that nothing in this Agreement relieves NAVISTAR DIESEL of its obligation to fully comply with the requirements of E.O. 11246, Section 503, VEVRAA, their implementing regulations, and other applicable equal employment laws.

4. NAVISTAR DIESEL 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 Agreement, including any attachments, contains 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 Deputy Regional Director of the Atlanta Region (the "Effective Date") unless the Director of OFCCP indicates otherwise within 45 calendar days of the date the Deputy Regional Director signs the Agreement.

9. This Agreement will expire 60 days after NAVISTAR DIESEL submits the final report required in Part IV-1.D, below, unless OFCCP notifies NAVISTAR DIESEL in writing prior to the expiration date that NAVISTAR DIESEL has not fulfilled all of its obligations under the Agreement, in which case, the Agreement is automatically extended until the date that OFCCP determines NAVISTAR DIESEL has met all of its obligations under the agreement.

10. If NAVISTAR DIESEL violates this Conciliation Agreement,

A. The procedures set forth at 41 C.F.R. § 60-1.34 will govern:

a. If OFCCP believes that NAVISTAR DIESEL violated any term of the Agreement while it was in effect, OFCCP will send NAVISTAR DIESEL a written notice stating the alleged violations and summarizing any supporting evidence.

b. NAVISTAR DIESEL 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.

c. If NAVISTAR DIESEL 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.

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

B. NAVISTAR DIESEL may be subject to the sanctions set forth in Section 209 of the Executive Order and/or other appropriate relief for violation of this Agreement.

11. This Agreement does not constitute an admission by NAVISTAR DIESEL of any violation of E.O. 11246, Section 503, VEVRAA, or other laws, nor has there been an adjudicated finding that NAVISTAR DIESEL violated any laws.

PART III. SPECIFIC VIOLATIONS AND REMEDIES

1. STATEMENT OF VIOLATION.

HIRING DISCRIMINATION:

OFCCP found that NAVISTAR DIESEL is not in compliance with the nondiscrimination requirements of the equal opportunity clause of E.O. 11246 § 202 and 41 C.F.R. § 60-1.4(a)(1). OFCCP performed a complaint investigation and a compliance review which revealed that NAVISTAR DIESEL discriminated against minority applicants for Machinist and Assembler positions at NAVISTAR DIESEL's Hunstville, Alabama facility during review periods spanning January 2004 through December 2004, and October 2004 through September 2005. OFCCP found that there was a statistically significant disparity in the hiring of Machinist and Assembler positions based on race.

2. OFCCP'S SPECIFIC FINDINGS.

HIRING DISCRIMINATION:

OFCCP's analysis of the applicant and hiring data demonstrates that NAVISTAR DIESEL's selection process had an adverse impact on the hiring of minority applicants for Machinist and Assembler positions. The complaint concerned a hiring process that included a written battery of tests created by (b) (4), (7)(E) overall disparity for the testing process was statistically significant at (b) (7)(E) standard deviations with a shortfall of 5, while the (b) (7)(E) test specifically resulted in a standard deviation of (b) (7)(E) with a shortfall of 18. The compliance review concerned a hiring process that included a written battery of tests created by (b) (4), (7)(E) and known as (b) (4), (7)(E); the overall disparity for the testing process was statistically significant at (b) (7)(E) standard deviations with a shortfall of 3, while the (b) (4), (7)(E) test specifically resulted in a standard deviation of (b) (7)(E) and a shortfall of 4. Through its investigation, OFCCP determined that the adverse impact was caused by the (b) (7)(E) and (b) (4), (7)(E) tests, rather than by any other steps in the either application process. OFCCP further found that NAVISTAR

DIESEL had not properly validated hiring tests in accordance with the requirements of the Uniform Guidelines on Employee Selection Procedures, 41 C.F.R. Part 60-3. Accordingly, as a result of using the [REDACTED] and [REDACTED] tests, NAVISTAR DIESEL discriminated against qualified minority applicants who applied for Machinist and Assembler positions during the review periods.

3. REMEDY FOR AFFECTED CLASS.

A. Notice. By March 14, 2014, NAVISTAR DIESEL must notify the minority applicants listed in Attachment A of the terms of this Agreement by mailing by first-class mail to each individual in the affected class the: Notice to Affected Class (Attachment B, "Notice"), Information Verification & Employment Interest Form (Attachment C, "Interest Form"), and a postage paid return envelope. NAVISTAR DIESEL will on a monthly basis. In addition, by April 28, 2014, NAVISTAR DIESEL will notify OFCCP of all letters returned as undeliverable and provide OFCCP with a list of the individuals in the affected class who have not yet responded to the Notice and/or have not returned a signed Interest Form. OFCCP will then attempt to obtain and provide updated addresses to NAVISTAR DIESEL by June 27, 2014. NAVISTAR DIESEL agrees to mail by first-class mail a second Notice, Interest Form, and postage paid return envelope to all individuals for whom updated addresses were obtained by July 28, 2014.

B. Eligibility. All members of the affected class listed on Attachment A who sign and return the Interest Form to NAVISTAR DIESEL within 30 calendar days of the postmarked date on the envelope containing the first or second Notice and Interest Form ("Eligible Class Members") will receive a share of the monetary settlement and, if indicating an interest in employment, will be eligible to be considered for a job pursuant to this Agreement. If an individual receives, but does not return the Interest Form to NAVISTAR DIESEL within 30 calendar days of the postmarked date on the envelope containing the first or second Notice and Interest Form, he/she will no longer be entitled to a payment or consideration for a job under this Agreement.

Within 30 days after the response deadline set out in the Interest Form, NAVISTAR DIESEL will provide OFCCP with a list of the Eligible Class Members (individuals who returned the Interest Form by the deadline). Within 60 calendar days after receiving the list, OFCCP will approve the final list of Eligible Class Members or discuss with NAVISTAR DIESEL any issues necessary to finalize the list, such as the inclusion or exclusion of certain individuals.

All Eligible Class Members are entitled to their share of the monetary settlement regardless of whether they are interested in employment with NAVISTAR DIESEL.

C. Monetary Settlement. NAVISTAR DIESEL agrees to distribute \$85,000.00, less legal deductions required by law from back pay only (such as federal, state and/or local taxes and the Eligible Class Members' share of FICA taxes), in equal shares among all eligible class members on the final approved list. NAVISTAR DIESEL will pay the employer's share of social security withholdings to the appropriate government agency and will mail each Eligible Class Member an IRS W-2 Form reporting the portion of the payment

representing back pay and an IRS Form 1099 for the portion of the payment representing interest. These forms will be mailed in the time period required by law. NAVISTAR DIESEL will disburse the monetary settlement within 30 calendar days after OFCCP approves the final list of Eligible Class Members.

Within 30 calendar days of NAVISTAR DIESEL's receipt of a check to an Eligible Class Member returned as undeliverable, NAVISTAR DIESEL will notify OFCCP of this fact via e-mail sent to [REDACTED], Compliance Officer, at [REDACTED]@dol.gov and Alvin Mitchell, District Director, at mitchell.alvin@dol.gov. OFCCP will attempt to locate the Eligible Class Member and if OFCCP obtains an alternate address, NAVISTAR DIESEL will re-mail the check within 30 calendar days of receiving an alternate or corrected address. Any check that remains uncashed 120 days after the initial date the check was mailed to the Eligible Class Member will be void. With respect to any uncashed funds, NAVISTAR DIESEL will make a second distribution to those Eligible Class Members who did cash their first check, dividing all remaining uncashed funds equally among the remaining Eligible Class Members. This second distribution of the uncashed funds will be made within 30 days after the uncashed checks have been voided.

D. Employment. As positions become available, NAVISTAR DIESEL will consider qualified Eligible Class Members not currently employed by NAVISTAR DIESEL who express an interest in employment with NAVISTAR DIESEL until 7 Eligible Class Members are hired as Machinists or Assemblers or until the list of Eligible Class Members expressing an interest in employment is exhausted, whichever occurs first. Eligible Class Members will be considered in the order that NAVISTAR DIESEL receives their Interest Forms. If NAVISTAR DIESEL receives more than one response on any given day, those Eligible Class Members will be considered for employment based on the date of their original application. NAVISTAR DIESEL must initiate its hiring of Eligible Class Members within 30 days after the response deadline set out in the Interest Form and must complete its hiring obligations under this section within one year of the Effective Date of this Agreement. If NAVISTAR DIESEL is not able to hire 7 Eligible Class Members or exhaust the list of Eligible Class Members expressing an interest in employment within one year, OFCCP may extend the term of this Agreement for up to 12 additional months or until NAVISTAR DIESEL satisfies its hiring requirement(s), whichever occurs first.

Eligible Class Members will be allowed at least 2 weeks to report for work after receiving a written job offer from NAVISTAR DIESEL. The Eligible Class Members hired into Machinist or Assembler positions pursuant to this Agreement must be paid at least the current wage rate for the Machinist or Assembler position, and must be provided with the same benefits and opportunity to earn overtime and shift differentials as other Machinist or Assembler employees. In addition, all Eligible Class Members hired must receive retroactive seniority using the date of their original application as their hire date for all purposes, including job retention, job bidding and benefits.

E. Non-Monetary Remedies. NAVISTAR DIESEL will ensure that all applicants are afforded equal employment opportunities. NAVISTAR DIESEL agrees to immediately

cease using the selection procedures, practices, and/or policies which negatively affected the hiring of minority applicants for Machinist and Assembler positions. NAVISTAR DIESEL agrees to continue and/or to implement the corrective actions detailed below.

a. **Eliminate Discriminatory Selection Procedures:** NAVISTAR DIESEL agrees to immediately cease use of the [REDACTED] tests until they are validated in accordance with 41 C.F.R. Part 60-3. NAVISTAR DIESEL agrees to comply with all OFCCP regulations concerning selection procedures, including 41 C.F.R. Part 60-3. NAVISTAR DIESEL will not use any selection procedure that has an adverse impact on applicants on the basis of race unless it properly validates the procedure pursuant to these regulations.

b. **Review and Revisions Required:** NAVISTAR DIESEL will revise, in writing, the practices, policies and procedures it uses to select applicants for Machinist and Assembler positions (hereinafter "Revised Hiring Process"). Specifically, NAVISTAR DIESEL will:

i. create a job description and selection process for Machinists and Assemblers which describes the essential functions; the minimum qualifications including required skills and certifications; and the criteria used in each step of the hiring process, including any application screens, interviews, tests, credit checks, review of criminal history, reference checks, testing, or other selection procedure;

ii. develop specific, job-related qualification standards for Machinists and Assemblers that reflect the duties, functions, and competencies of the position to minimize the potential for race stereotyping or other unlawful discrimination;

iii. ensure all policies and qualification standards are uniformly applied to all applicants; and

iv. list clearly on its recruiting materials and job postings the minimum qualifications, including required skills and certifications.

c. **Recordkeeping and Retention:** NAVISTAR DIESEL will write and implement procedures to ensure that applicants are tracked and decisions are documented at each step in the hiring process. NAVISTAR DIESEL will write and implement procedures to ensure that documents are retained in accordance with 41 C.F.R. 60-1.12(a) and Part 60-3.

d. **Training:** By April 30, 2014, NAVISTAR DIESEL must train all individuals involved in any way in recruiting, selecting, or tracking applicants for Machinist and Assembler positions on the Revised Hiring Process. The training will include instruction in: the proper implementation of the recruitment, tracking and selection procedures; neutral application of the specified qualifications and criteria that will be used at each step in the hiring process; procedures to be used

to document the decisions made at each step in the hiring process; and the procedures to be used to ensure that documents are retained in accordance with 41 C.F.R. § 60-1.12(a) and Part 60-3. NAVISTAR DIESEL will meet with management and all individuals responsible for the selection process and review its equal employment obligations and nondiscrimination policies related to hiring. Specific attention will be directed to ensure that minority applicants, who benefit from the provisions of this agreement, are not retaliated against.

e. **Monitoring:** NAVISTAR DIESEL agrees to monitor selection rates at each step of its selection process for Machinist and Assembler positions. Where it is determined that a selection procedure has an adverse impact on the hiring of applicants of a particular race or gender, NAVISTAR DIESEL will eliminate the procedure, choose an alternative procedure, or validate the procedure in accordance with the UGESP codified at 41 C.F.R. Part 60-3. NAVISTAR DIESEL agrees to maintain and make available to OFCCP records concerning the impact of the selection process for Machinist and Assembler positions at the Huntsville facility. This includes the number of persons hired by race, the number of applicants who applied by race, and the selection procedures utilized. This information will be maintained until the expiration of this Agreement or as long as required by the regulations, whichever is later.

Part IV. REPORTS REQUIRED

NAVISTAR DIESEL must submit the documents and reports described below to: District Director-Birmingham at 950 22nd Street North, Suite 660, Birmingham, Alabama 35203.

A. By March 31, 2014, NAVISTAR DIESEL must submit a copy of the written Revised Hiring Process described in section III.

B. By July 31, 2014, NAVISTAR DIESEL must submit documentation that all managers, supervisors and other personnel involved in recruiting, selecting, or tracking applicants for Machinist and Assembler positions have been trained on the Revised Hiring Process. The documentation must include the dates of the training, the names and job titles of all attendees, an outline of the topics discussed in the training, and the name and job title of each person who conducted the training.

C. Within the prescribed timeframes, NAVISTAR DIESEL must submit all documents and information referenced in section III.

D. For one year following the Effective Date of this Agreement or until all hires have been made and all back wages have been distributed, NAVISTAR DIESEL must submit a progress report covering each 6-month period this Agreement is in effect. The first progress report will be due 7 months after the Effective Date of this Agreement and must cover the 6-month period beginning with the Effective Date. The subsequent report(s) must cover the successive 6-month period, and must be submitted within 30 days after the close of that 6-month period. NAVISTAR DIESEL will submit the following in each progress report:

- a. Documentation of monetary payments to all Eligible Class Members as specified in section III.3.C. The documentation must include the names of Eligible Class Members who were paid, and, for each Eligible Class Member, the number and the amount of the check and the date the check cleared the bank. NAVISTAR DIESEL must provide OFCCP with copies of all canceled checks upon request;
- b. Documentation of specific hiring activity for Eligible Class Members who were hired as Machinist and Assembler positions in accordance with this Agreement, including name, date of hire, job title hired into, rate of pay and proof of retroactive seniority and benefits;
- c. For Eligible Class Members who were considered for employment but were not hired, NAVISTAR DIESEL will provide the reason for non-placement along with all relevant documentation (e.g., documentation that the Eligible Class Member declined a job offer);
- d. The total number of applicants and hires and the breakdown by race, gender and ethnic group of applicants and hires for Machinist and Assembler positions during the reporting period, including all temporary, part time, and seasonal workers who were referred to and/or assigned to work at NAVISTAR DIESEL by a staffing firm or employment agency;
- e. For Machinist and Assembler positions, the results of NAVISTAR DIESEL's analysis as to whether its total selection process has adverse impact, excluding hires made pursuant to this Agreement; NAVISTAR DIESEL must combine the data for the current report with the data from the previous report(s) to analyze at least a 12-month period;
- f. For each case where the total selection process has an adverse impact the results of NAVISTAR DIESEL's evaluation of the individual components of the selection process for adverse impact; and/ or
- g. The actions taken by NAVISTAR DIESEL upon determining that any component of the selection process has an adverse impact on members of groups set forth in section III.3.E above.

E. NAVISTAR DIESEL 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.

TERMINATION DATE: This Agreement will expire 90 days after OFCCP receives the final report required in Part IV above or on the date that the District Director gives notice to NAVISTAR DIESEL that NAVISTAR DIESEL has satisfied its reporting requirements, whichever occurs earlier, unless OFCCP notifies NAVISTAR DIESEL in writing prior to the

end of the 90-day period that NAVISTAR DIESEL has not satisfied its reporting requirements pursuant to this Agreement.

INTEGRATION CLAUSE: This Agreement represents the full Agreement between NAVISTAR DIESEL and OFCCP and this Agreement supersedes any other agreements, oral or written. In signing this Agreement, neither NAVISTAR DIESEL 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 V. SIGNATURES

The person signing this Conciliation Agreement on behalf of Navistar Diesel of Alabama, LLC personally warrants that he is fully authorized to do so, that Navistar Diesel of Alabama, LLC 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 Navistar Diesel of Alabama, LLC. This Conciliation Agreement is hereby executed by and between the Office of Federal Contract Compliance Programs and Navistar Diesel of Alabama, LLC.

Date: 2/20/14

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

John L. Fulks
Plant Manager
Navistar Diesel of Alabama, LLC
646 James Record Road
Huntsville, Alabama 35824

Date: 02/28/2014

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

Compliance Officer—Birmingham
Office of Federal Contract Compliance
Programs

Date: 02/28/2014

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

~~Katie G. Course~~ Eunsook Kim
Assistance District Director — ~~Jackson~~ Atlanta
Office of Federal Contract Compliance
Programs

Date: 02/28/2014

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

Alvin Q. Mitchell
District Director — ~~Orlando~~ Birmingham
Office of Federal Contract Compliance
Programs

Date: 2/27/2014

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

Marva James
Deputy Regional Director — Southeast
Office of Federal Contract Compliance
Programs

ATTACHMENT A

LIST OF AFFECTED CLASS MEMBERS

(6), (7)(C)



(6), (7)(C)



ATTACHMENT B
NOTICE TO AFFECTED CLASS

Dear [NAME]:

Navistar Diesel of Alabama, LLC's (formerly known as "International Diesel of Alabama, LLC") ("NAVISTAR DIESEL") and the Department of Labor's Office of Federal Contract Compliance Programs ("OFCCP") have entered into a Conciliation Agreement ("Agreement") to remedy the violations of Executive Order 11246 ("E.O. 11246"), that OFCCP found during a complaint investigation and a compliance review of CONTRACTOR's Huntsville, Alabama facility. OFCCP performed a complaint investigation and a compliance review which revealed that NAVISTAR DIESEL discriminated against minority applicants for Machinist and Assembler positions at NAVISTAR DIESEL's Huntsville, Alabama facility during review periods spanning January 2004 through December 2004, and October 2004 through September 2005. OFCCP found that there was a statistically significant disparity in the hiring of Machinist and Assembler positions based on race.

NAVISTAR DIESEL has not admitted to any violation of E.O. 11246, and there has not been any adjudicated finding that NAVISTAR DIESEL violated any laws. OFCCP and NAVISTAR DIESEL entered into the Agreement to resolve the matter without resorting to further legal proceedings. You have been identified as an individual who applied for a Machinist and/or Assembler position during that time period, but was not hired.

As part of this Agreement, you are eligible to receive a distribution of at least \$955.06 less lawful payroll deductions. Under the terms of this Agreement it may take up to five months from the date of this letter before you receive your distribution. In order to be eligible for a payment, you must complete, sign, and return the enclosed Information Verification and Employment Interest Form. You should complete and mail back the form as soon as possible; it *must* be postmarked to the address below no later than thirty (30) calendar days after the date this Notice was mailed out (postmarked) for you to be entitled to participate in this settlement:

Tim Powelke
Business Team Leader-HR
Navistar Diesel of Alabama, LLC
646 James Record Road
Huntsville, Alabama 35824

You may use the enclosed postage-paid return envelope to return the completed and signed Information Verification and Employment Interest Form.

In addition to the monetary distribution, NAVISTAR DIESEL will be making job offers for Machinist and Assembler positions to a limited number of individuals receiving this notification. It is not certain that you will receive a job offer. If you are still interested in employment with NAVISTAR DIESEL, please check the appropriate box on the enclosed Information Verification

and Employment Interest Form. Those receiving this notice will be considered for Machinist and Assembler positions in the order that NAVISTAR DIESEL receives the Information Verification and Employment Interest Form expressing an interest in employment. All individual hired pursuant to this Agreement will be provided with retroactive seniority for purposes of benefits. If you have any questions you may call Tim Powelke, Business Team Leader-HR, at Navistar Diesel of Alabama, LLC at (256) 774-6400, or OFCCP Compliance Officer [REDACTED] at (205) 731-0820. Your call will be returned as soon as possible.

IF YOU FAIL TO COMPLETE AND RETURN THE ENCLOSED DOCUMENTS TO NAVISTAR DIESEL WITHIN 30 CALENDAR DAYS OF THE DATE THE ENVELOPE CONTAINING THIS NOTICE WAS POSTMARKED, YOU WILL NOT BE ELIGIBLE TO RECEIVE A PAYMENT OR TO BE CONSIDERED FOR A JOB OFFER.

Sincerely,

John L. Fulks

Enclosures:

Information Verification and Employment Interest Form

U.S. Department of Labor

Employment Standards Administration
Office of Federal Contract
Compliance Programs
Buffalo Area Office
Niagara Center
130 South Elmwood Avenue, Rm 536
Buffalo, New York 14202
Reply to the attention of:



**CONCILIATION AGREEMENT
BETWEEN
THE U.S. DEPARTMENT OF LABOR
OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS**

AND

**NEW PROCESS GEAR, INC,
6600 NEW VENTURE GEAR DRIVE
EAST SYRACUSE, NEW YORK 13057**

OFCCP CASE NUMBER R00141913

PART I: GENERAL PROVISIONS

1. This Agreement is between the Office of Federal Contract Compliance Programs (hereinafter OFCCP) and New Process Gear, Inc, (hereinafter NPG), 6600 New Venture Gear Drive, East Syracuse, New York 13057.
2. The violations identified in this Agreement were found during a compliance review of NPG, which began on, August 8, 2007 and they were specified in a Notice of Violations issued on June 15, 2009. OFCCP alleges that NPG has violated Executive Order 11246, as amended, and implementing regulations at 41 CFR Chapter 60 due to the specific violations cited in Part II below.
3. This Agreement does not constitute an admission by NPG of any violation of Executive Order 11246, as amended, and implementing regulations.
4. The provisions of this Agreement will become part of NPG's Affirmative Action Program (AAP). Subject to the performance by NPG of all promises and representations contained herein and in its AAP, all named violations in regard to the compliance of NPG with all OFCCP programs will be deemed resolved. However, NPG is advised that the commitments contained in this Agreement do not preclude future determinations of non-compliance based on a finding that the commitments are not sufficient to achieve compliance.

5. NPG agrees that OFCCP may review compliance with this Agreement. As part of such 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 NPG's compliance. NPG shall permit access to its premises during normal business hours for these purposes.
6. Nothing herein is intended to relieve NPG from the obligation to comply with the requirements of the Executive Order 11246, as amended, Section 503 of the Rehabilitation Act of 1973, as amended, the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended (38 U.S.C. 4212), and implementing regulations, or any other equal employment statute or executive order or its implementing regulations.
7. NPG 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 participated in any manner in any proceedings under Executive Order 11246, as amended, Section 503 of the Rehabilitation Act of 1973, as amended, and the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended (38 U.S.C. 4212).
8. This Agreement will be deemed to have been accepted by the Government on the date of signature by the Regional Director for OFCCP, unless the Deputy Assistant Secretary, OFCCP, indicates otherwise within 45 days of the Regional Director's signature of this Agreement.
9. If at any time in the future, OFCCP believes that NPG has violated any portion of this Agreement during the term of this Agreement, NPG will be promptly notified of that fact in writing. This notification shall include a statement of the facts and circumstances relied upon in forming that belief. In addition, the notification will provide NPG with 30 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 30-day period has elapsed (or sooner, if irreparable injury is alleged) without issuance of Show Cause Notice.

Where OFCCP believes that NPG 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 NPG to sanctions set forth in Section 209 of the Executive Order 11246, as amended, and/or other appropriate relief.

PART II- SPECIFIC PROVISIONS

1. Violation: During the compliance evaluation of NPG which began on August 8, 2007 and covered the period of January 1, 2007 through December 31, 2007, OFCCP determined that NPG discriminated against minority applicants in the hiring for Production Operator positions in the Operative Job Groups because of their race, in violation of 41 CFR 60-1.4(a)(1) and 41 CFR 60-3.

Initially, NPG submitted information revealing that during the review period (b) (7)(E) individuals, including (b) (7)(E) minorities, applied for Production Operator positions. OFCCP determined that from these applicants, (b) (7)(E) were hired including (b) (7)(E) minorities which yielded standard deviations of (b) (7)(E) with 29 fewer minorities being hired than would be expected given their representation in the applicant pool. The applicant / hire pool was refined and the results indicated that there were a total of (b) (7)(E) applicants, (b) (7)(E) non-minority and (b) (7)(E) minority applicants, and a total of (b) (7)(E) hires of which (b) (7)(E) were non-minority and (b) (7)(E) were minority. OFCCP determined that NPG's selection process had a disparate impact against minority applicants which resulted in (b) (7)(E) standard deviations with 32 fewer minorities being hired than would be expected given their representation in the applicant pool.

Due to the significant impact on minority applicants OFCCP analyzed the components of NPG's selection process. The analysis revealed that NPG utilized a pre-employment test battery for Production Operator positions, the *WorkKeys* Assessment from ACT, Inc. Although the pass rate for minorities was greater than (b) (7)(E) of the pass rate for non-minorities, indicating no adverse impact using the four-fifths rule as defined by 41 CFR 60-3.4(D), OFCCP determined that the *WorkKeys* pre-employment test battery assessment caused significant impact because that same analysis yielded (b) (7)(E) standard deviations for minorities. After reviewing all of the validity evidence provided by ACT, Inc. and NPG, OFCCP determined that the evidence does not support the validity of the testing component used to select individuals for Production Operator positions. An analysis of individuals who successfully completed the test battery indicated no significant standard deviations. The hiring rate for both minorities and whites who passed the *WorkKeys* Assessment pre-employment test battery was (b) (7)(E). Therefore, based on the hiring rate, OFCCP determined that the test battery impacted (b) (7)(E) minorities.

REMEDY: NPG agrees to the following:

- A. Selection Procedures: NPG ceased utilizing the *WorkKeys* Assessment pre-employment test battery and has modified its selection procedures for Production Operator positions eliminating the *WorkKeys* Assessment pre-employment test battery thus ensuring that this alleged violation will not recur.
- B. Notification:
 - a. Within thirty (30) days from the effective date of this Agreement, NPG will notify the ninety-three (93) class members listed in Attachment A of the terms of this agreement by certified mail or other form of delivery showing written proof of delivery to the

each class member. A Notification Letter (Attachment B) and a Release of Claims Under the Executive Order (Attachment C) will be sent to each class member. Attachment A includes all of the minority applicants who took the *WorkKeys* Assessment pre-employment test battery but did not advance to the next stage in the selection process due to their scores. The Notification Letter advises the class members of the resolution of this case and that they have thirty (30) days from the receipt of the letter to respond.

- b. Fifteen (15) days after the last response was due, NPG will provide OFCCP with a list of class members not located, and any documentation demonstrating NPG's attempts to locate these individuals. OFCCP will have an additional thirty (30) days to attempt to locate those class members not found by NPG and will notify NPG of the results.
 - c. NPG will then have thirty (30) days to mail additional Notices and Releases to minorities from the list that OFCCP provided. These class members will have thirty (30) days to respond.
 - d. NPG will provide OFCCP with the final list of all class members who were located and who returned the signed release fifteen (15) days after the last response was due. OFCCP will approve the final list and notify NPG. The class members who return the completed, required forms within the established timeframes shall constitute the final list of class members who shall be entitled to monetary and other benefits provided for in this Agreement.
- C. Offers of Employment: No offers of employment will be made due to the limited employment window, approximately nine months, of the Production Operator positions in question and the pending shutdown of the NPG facility in East Syracuse, NY.
- D. Monetary Settlement: The monetary settlement includes backpay of \$55,008.00 plus IRS compound interest in the amount of \$7,697.76 and benefits for five months at 33% in the amount of \$9,076.32 for a total of \$71,782.08 after mitigation. NPT/MPT will disburse the monetary settlement on a pro rata basis within 180- days from the date it receives the final list from the OFCCP, among all class members who have signed and returned the Release within the time period designated above. Class members who receive a payment from NPG will receive the appropriate IRS documents reflecting such payment. No disbursement of the monetary settlement is to be made prior to 45 days following the effective date of this Agreement. The total monetary amount of \$ 71,782.08 will not be reduced even if any of the ninety-three (93) class members cannot be located.

Should any monies remain after that date they will be held until nine (9) months from the effective date of this Agreement; then NPG will then have thirty (30) days to evenly distribute the remaining monies among each class member who signed and returned the Release.

2. **Violation:** OFCCP determined that NPG failed to maintain and have available records or other information which would disclose the impact which its tests and other selection procedures had upon employment opportunities of persons of identifiable race or ethnic group in violation of 41 CFR 60-1.12A and 41 CFR 60-3.4.

Remedy: Within fifteen (15) days from the date of signature by the Regional Director of this Conciliation Agreement NPG will begin to maintain complete and accurate records of applicants by race and ethnicity to allow for the analysis of its pool of applicants to monitor whether the process is yielding an adequate pool of qualified minority applicants and to monitor for significant adverse impact in the selection process. NPG shall continue to conduct an analysis of its entire selection/hiring process for Production Operator positions to identify adverse impact. If adverse impact is identified, NPG will evaluate the individual components of its selection process to determine where the adverse impact occurred. If adverse impact is found to exist in any of the individual components of its selection process, NPG will take immediate action to correct or validate that component(s) in accordance with the Uniform Guidelines on Employee Selection.

3. **Violation:** OFCCP determined that NPG failed to perform an in-depth analysis of its total employment process to determine whether and where impediments to equal employment opportunity existed, as required by 41 CFR 60-2.17(b). Specifically, OFCCP determined that NPG failed to evaluate its applicant and hire activity to determine whether there were selection disparities. OFCCP determined that NPG also failed to conduct an analysis of its selection procedures to determine whether they resulted in disparities in the employment of minorities.

Remedy: Within fifteen (15) days from the date of signature by the Regional Director of this Conciliation Agreement NPG will begin to evaluate its selection procedures and applicant and hire activity to determine whether there are disparities in the employment of minorities.

4. **Violation:** OFCCP determined that NPG failed to develop and execute adequate action-oriented programs designed to correct any problem areas identified pursuant to 41 CFR 60-2.17(b), as required by 41 CFR 60-2.17(c). Specifically, OFCCP determined that NPG failed to correct the selection procedure(s), which created barriers to employment opportunities in the hiring of minorities for Production Operator positions.

Remedy: Within fifteen (15) days from the date of signature by the Regional Director of this Conciliation Agreement NPG will begin to develop and execute action-oriented programs designed to correct any problem areas identified, shall take good faith efforts to remove all identified barriers to their selection procedures in order to attain established goals and objectives.

NPG commits that the above alleged violations will not recur.

PART III: REPORTING

In order for OFCCP to monitor NPG's progress toward fulfilling the provisions of this Agreement, NPG shall submit the specific reports identified below. NPG shall send each report to:

Mary Ellen Bentivogli
District Director
U. S. Department of Labor
Office of Federal Contract Compliance Programs
Buffalo Area Office
130 South Elmwood Avenue, Rm 536
Buffalo, New York 14202

Reports for Violation 1

The **first** report is due **forty-five (45)** days from the effective date of this Agreement and will include documentation of mailing of the Notice and Release to the class members in Attachment A.

The **second** report is due **fifteen (15)** days after the last response (from class members) was due and will include a list of class members who failed to respond to the Notice to Class Members or who were not located by NPG.

The **third** report is due **six (6) months** from the effective date of this Agreement and will include documentation of monetary relief provided to all class members as specified in subparagraph (d) of the Remedy to Violation 1. The documentation should include copies of all signed releases and canceled checks disbursed by NPG to the class members, or other equivalent documentation verifying that class members were paid.

The **fourth** report is due **twelve (12) months** from the effective date of this Agreement and will contain an explanation of how the remaining monies were disbursed, to include the total amount that remained in the account, who the monies were disbursed to, the amount given to each person, and proof that each person received the money.

Report for Violation 2 through 4

This report is due in the Buffalo Area Office on **February 28, 2011** and cover the period January 1, 2010 through December 31, 2010. The report will contain:

A copy of NPG's adverse impact analysis conducted for the Production Operator position. If the selection process for this position has an adverse impact on minorities, NPG will provide the results of its review and/or examination of each individual selection component in the selection process for the Production Operator position. Included will be any actions taken by NPG as a result of its review.

For any identified problem areas NPG shall supply documentation which demonstrates the development and execution of action-oriented programs that it designed to eliminate the identified problem.

NPG agrees to maintain, during the life of this Agreement, all records pertinent to the alleged violations resolved by this Agreement and reports submitted under it, including the underlying data/information upon which the reports are based, for a period of not less than 2 years or until the termination date of this Agreement, whichever is later.

Termination Date:

This Conciliation Agreement will expire sixty (60) days after receipt of the final progress report or if compliance is not accomplished by that date, then this Agreement shall remain in full force and effect until compliance is achieved.

PART IV: SIGNATURES

This Conciliation Agreement is hereby executed by and between the Office of Federal Contract Compliance Programs and New Process Gear, Inc., 6600 New Venture Gear Drive, East Syracuse, New York 13057

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

Bob Bowers, General Manager
New Process Gear, Inc.
6600 New Venture Gear Drive
East Syracuse, NY 13057

DATE: 5-14-10

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

MICHELE HODGE
Acting Regional Director for OFCCP
Northeast Region
201 Varick Street
New York, NY 10014

DATE: 5-18-2010

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

MARY ELLEN BENTIVOGLI
District Director
Buffalo and Hartford Offices
Northeast Region

DATE: May 5, 2010

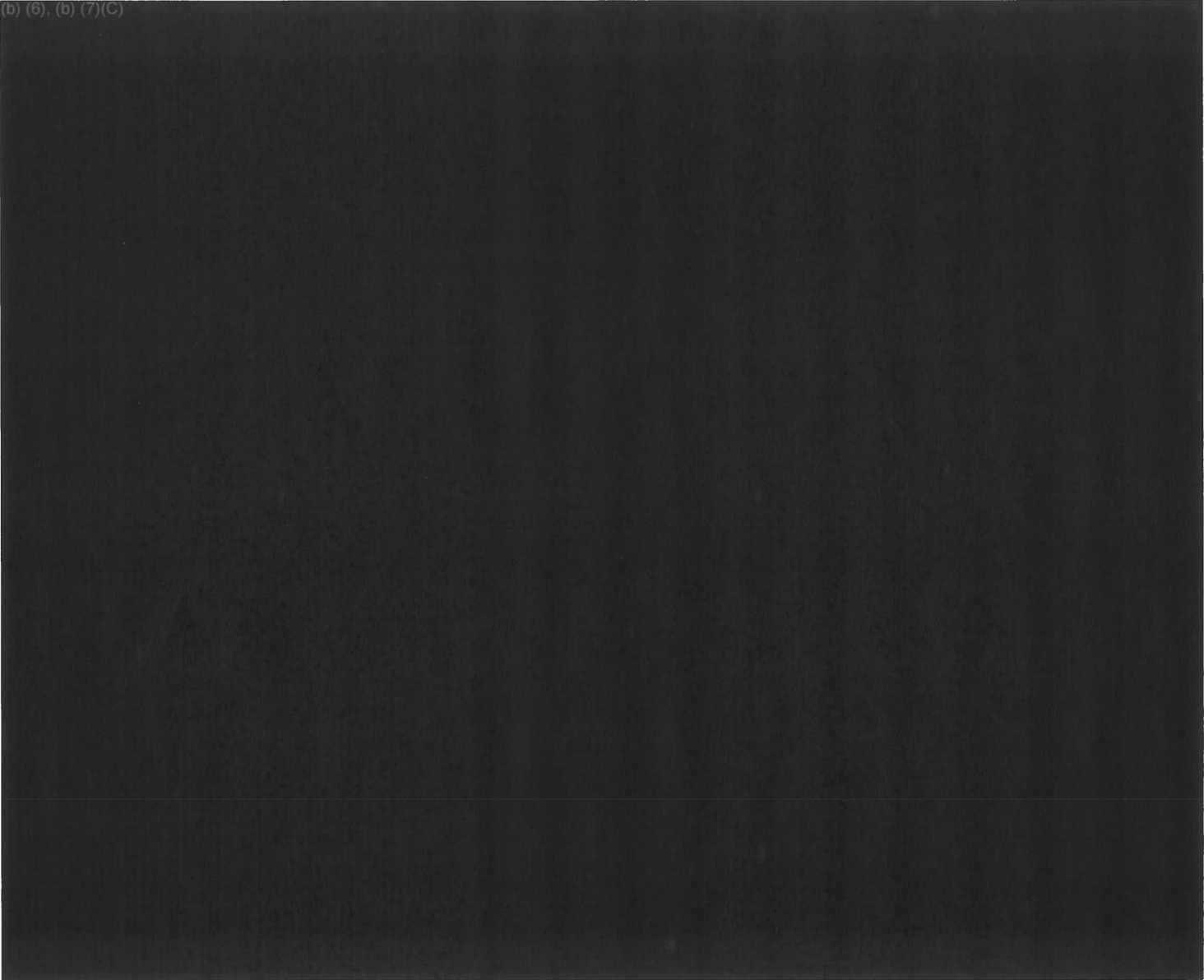
(b) (6), (b) (7)(C)

LYNN SHEAR
Assistant District Director
Buffalo Area Office
Northeast Region

DATE: 5-17-10

ATTACHMENT A
LIST OF CLASS MEMBERS

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



ATTACHMENT B

NOTICE TO CLASS MEMBERS

New Process Gear, Inc., , 6600 New Venture Gear Drive, East Syracuse, New York 13057 (hereinafter NPG) and the Department of Labor's Office of Federal Contract Compliance Programs have entered into a Conciliation Agreement to resolve alleged disparities in the testing applicants for Production Operator positions during the period January 1, 2007 through December 31, 2007. You have been identified as one of the individuals who may have been tested during that time period.

As part of this Agreement, you are eligible to receive a monetary award. Under the terms of this Agreement, you may receive the award up to six months from the date of this letter. In order to be initially eligible for this distribution, you must send the completed Release of Claims Form (including your valid social security number) to the following address:

New Process Gear, Inc.,
6600 New Venture Gear Drive
East Syracuse, New York 13057

Attention: (Name / Title)

By entering into this Agreement, NPG has not admitted nor has there been any adjudicated finding that NPG violated any laws. NPG has entered into this Agreement to resolve the matter without further legal proceeding.

If you have any questions, you may call [REDACTED] Compliance Officer, US Department of Labor, Office of Federal Contract Compliance, and Buffalo Area Office at [REDACTED]. Your call will be responded to as soon as possible.

Sincerely,

Enclosure: Release of Claims

ATTACHMENT C

RELEASE OF CLAIMS UNDER THE EXECUTIVE ORDER

In consideration of the monetary payment by New Process Gear, Inc., 6600 New Venture Gear Drive, East Syracuse, New York 13057 (hereinafter NPG) to me, which I agree is acceptable, and also in consideration of the Conciliation Agreement between NPG and the Office of Federal Contract Compliance Programs (OFCCP), I (Class Members' Name) agree to the following:

I

I hereby waive, release and forever discharge NPG, its predecessors, related entities, subsidiaries and organizations, and its directors, officers, employees, agents, successors, and assigns, of and from any and all action, damages, liabilities, and claims arising out of or actionable under Executive Order 11246, as amended, which I or my representatives (heirs, executors, administrators, or assigns) have or may have which relate in any way to being selected for employment at any time prior to the effective date of this Release.

II

I understand that if I am concerned about how the process described in this Release applies to me, I may contact OFCCP for assistance at:

[Redacted] Compliance Officer
US Department of Labor / Office Of Federal Contract Compliance Programs
130 South Elmwood Avenue, Rm. 536
Buffalo, NY 14202
Phone [Redacted]

III

I understand that NPG denies that it treated me unlawfully or unfairly in any way and that NPG entered into the above-referenced Agreement with OFCCP in the spirit of conciliation and to bring closure to the compliance evaluation initiated by OFCCP on (date of executed Conciliation Agreement). I further agree that the payment of the aforesaid sum by NPG to me is not to be construed as an admission of any liability by NPG.

IV

I declare that I have read this Release and that I have a full opportunity to consider and understand its terms and to consult with my advisors. I further declare that I have decided of my own free will to sign this Release.

V

I understand that if I do not sign this Release, provide my social security number, and return it to NPG within thirty (30) days from the date I receive this Release, I will not be entitled to receive the payment (less deductions required by law) from NPG.

IN WITNESS WHEREOF, I have set my hand on this _____ day of _____, 2010.

(Signature)

(Print Name)

(Social Security Number)



U.S. DEPARTMENT OF LABOR



Please note: As of January 20, 2017, information in some news releases may be out of date or not reflect current policies.

News Release

SUBSIDIARY OF ASHLAND INC., LEADING CHEMICAL COMPANY, SETTLES CHARGES OF HIRING DISCRIMINATION WITH US LABOR DEPARTMENT

Federal contractor, Aqualon Company, to pay 660 African-American applicants

RICHMOND, Va. – A subsidiary of one of the world’s leading specialty chemical companies has entered into a conciliation agreement with the U.S. Department of Labor’s Office of Federal Contract Compliance Programs to resolve allegations of race-based hiring discrimination.

The Aqualon Company, a subsidiary of global leader Ashland Inc., entered into the agreement after OFCCP determined that – from Oct. 1, 2011, through Sept. 30, 2012 – Aqualon failed to provide equal employment opportunities to 660 African Americans in the Richmond metropolitan area who applied for entry-level transition operator positions at the company’s facility in Hopewell.

OFCCP found that the company’s action violated Executive Order 11246, which prohibits federal contractors from discriminating based on race or color in their employment practices. Ashland has multiple federal contracts worth more than \$37 million with the U.S. Department of Navy, the U.S. Department of Army and other federal agencies.

“OFCCP is committed to ensuring that federal contractors and subcontractors conduct hiring, promotions, terminations and compensation fairly, without respect to race, color, religion, sex, sexual orientation, gender identity, national origin, disability or protected

veteran status,” said OFCCP Director Patricia Shiu. “We strongly encourage employers to take proactive steps to come into compliance with the law to prevent workplace discrimination.”

In its scheduled compliance evaluation, OFCCP found Aqualon used a discriminatory test as part of its selection process that adversely affected African-American applicants. The test was not job-related and did not meet the requirements of the Uniform Guidelines on Employee Selection Procedures.

Under the terms of the agreement, the company, which has not admitted liability, will pay \$175,000 in back pay and interest to the African-American applicants. Aqualon also agreed to hire four of the African-American applicants. Additionally, it has agreed to discontinue use of the test in question for its entry-level positions, and to revise its hiring and recordkeeping practices to comply with Executive Order 11246 and equal employment regulations applicable to federal contractors. The agreement resolves all violations.

Aqualon’s parent company is based in Covington, Kentucky. Ashland is a global leader in production of cellulose ethers and synthetic polymers. It has more than 11,000 employees worldwide that serve customers in more than 100 countries with 36 manufacturing sites in North America and additional locations in Asia, Europe and South America.

In addition to Executive Order 11246, OFCCP enforces Section 503 of the Rehabilitation Act of 1973 and the Vietnam Era Veterans’ Readjustment Assistance Act of 1974. Collectively, these laws make it illegal for contractors and subcontractors doing business with the federal government to discriminate in employment because of race, color, religion, sex, sexual orientation, gender identity, national origin, disability or status as a protected veteran. In addition, contractors and subcontractors are prohibited from discharging or discriminating against applicants or employees because they inquire about, discuss, or disclose their compensation or that of others, subject to certain limitations. For more information, visit <http://www.dol.gov/ofccp/>.

OFCCP recently launched the Class Member Locator. The purpose of the CML is to identify applicants and/or workers who have been impacted by OFCCP’s compliance evaluations and complaint investigations and who may be entitled to a portion of monetary relief and/or consideration for job placement. If you are an African American who applied for work as a transition operator at Ashland, Inc.’s Aqualon Company facility in Hopewell, Virginia,

between Oct. 1, 2011, and Sept. 30, 2012, but you were not hired, please visit our website at: <http://www.dol.gov/ofccp/CML/index.htm>, where you can also find information about other recent OFCCP settlements, or call 877-716-9783.

Agency:Office of Federal Contract Compliance Programs

Date:June 7, 2016

Release Number:16-0943-PHI

Contact: Joanna Hawkins

Phone Number:215-861-5101

Email:hawkins.joanna@dol.gov

Contact: Leni Fortson

Phone Number:215-861-5102

Email:uddyback-fortson.lenore@dol.gov

CONCILIATION AGREEMENT
BETWEEN
U.S. DEPARTMENT OF LABOR
OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS
AND
KAISER ALUMINUM FABRICATED PRODUCTS- TRENTWOOD WORKS
15000 EAST EUCLID AVE
SPOKANE VALLEY, WA 99216
AND
UNITED STEELWORKERS-LOCAL 338
14015 EAST TRENT AVE
SPOKANE VALLEY, WA 99216

PART I: GENERAL PROVISIONS

1. This Conciliation Agreement (hereinafter "Agreement") is between the Office of Federal Contract Compliance Programs (hereinafter "OFCCP"), Kaiser Aluminum Fabricated Products-Trentwood Works (hereinafter "Trentwood") located at 15000 East Euclid Ave, Spokane Valley, WA 99216, and United Steelworkers, Local 338 located at 14015 East Trent Ave, Spokane Valley, WA 99216.
2. The violation identified in this Agreement was found during a compliance evaluation of Trentwood which began on March 9, 2006, and was specified in a Notice of Violation issued on April 9, 2007. OFCCP alleges that Trentwood has violated Executive Order 11246, as amended, and implementing regulations at 41 CFR Chapter 60 due to the specific violation cited in Part II below.
3. This Agreement does not constitute an admission by Trentwood of any violation of Executive Order 11246, as amended, and implementing regulations.
4. The provisions of this Agreement will become part of Trentwood's Affirmative Action Program (hereinafter "AAP"). Subject to the performance by Trentwood of all promises and representations contained herein, and in its AAP, all named violations in regard to the compliance of Trentwood with all OFCCP programs will be deemed resolved. However, Trentwood 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.
5. Trentwood agrees that OFCCP may review compliance with this Agreement. As part of such 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 Trentwood's compliance. Trentwood shall permit access to its premises during normal business hours for these purposes.

Conciliation Agreement
Kaiser-Trentwood Works

6. Nothing herein is intended to relieve Trentwood from the obligation to comply with the requirements of Executive Order 11246, as amended, and/or 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), and implementing regulations, or any other equal employment statute or executive order or its implementing regulations.

7. Trentwood 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 to OFCCP, 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).

8. This Agreement will be deemed to have been accepted by the Government on the date of signature by the Regional Director, unless the Deputy Assistant Secretary for OFCCP indicates otherwise within 45 days of the Regional Director's signature of this Agreement.

9. If at any time in the future, OFCCP believes that Trentwood has violated any portion of this Agreement during the term of this Agreement, Trentwood 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 Trentwood 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 proceeding 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 Trentwood has violated this Agreement, OFCCP may seek enforcement of this Agreement itself and shall not be required to present proof of the underlying violation resolved by this Agreement.

Liability for violation of this Agreement may subject Trentwood to sanctions set forth in Section 209 of the Executive Order and/or other appropriate relief.

PART II: SPECIFIC PROVISIONS

Violation: A review of hiring practices by OFCCP revealed that Trentwood used a test not properly validated pursuant to the Uniform Guidelines on Employee Selection Procedures (UGESP) as outlined in 41 CFR 60-3, which resulted in discrimination against female applicants in the selection process for Operative positions during the period April 1, 2004 through March 31, 2005.

Conciliation Agreement
Kaiser-Trentwood Works

According to personnel activity data, testing documentation, management and employee interviews, and other information provided by Trentwood for the above review period, there were (b) (7) (E) applicants who tested for Operative positions. Of the (b) (7) (E) females who tested (b) (7) (E) passed the test and none were hired into Operative positions. In contrast, of the (b) (7) (E) males who tested (b) (7) (E) passed the test and (b) (7) (E) were hired into Operative positions. This disproportionate hiring pattern is statistically significant at greater than two standard deviations.

Trentwood had not properly validated tests and had not used alternative selection procedures to eliminate adverse impact. A statistically significant number of female applicants failed to pass the tests and thus were screened out and subsequently not hired, while Trentwood continued to interview and hire males who passed the tests. This disproportionate adverse impact of the test procedure on females during the hiring process for Operative positions is statistically significant at greater than two standard deviations.

Based upon the foregoing and other evidence gathered during its investigation, the OFCCP concluded that Trentwood is in violation of 41 CFR 60-1.4(a) (1) and 41 CFR 60-20.3.

By entering into this Agreement, Trentwood has not admitted nor has there been any adjudicated finding that Trentwood violated any laws.

Remedy: Trentwood agrees to revise its personnel practices and procedures to ensure that all qualified female applicants are afforded equal employment opportunity for employment in all Operative positions, for which they are qualified. Trentwood must agree to take the following corrective actions for the females identified in Attachment A to this Agreement:

(a) **Location and Notification of ACMs:** Within 60 days, but not earlier than 45 days after the effective date of this Agreement, Trentwood agrees to notify each Affected Class Member (hereinafter "ACM") of his or her rights under this Agreement by sending a certified letter¹ notifying the ACM of this Agreement and providing the ACM with a verification form² requesting current address, telephone number, social security number. Trentwood will also include a Release of Claims,³ an employment application form and a W-4 to complete and return with the notification letter. ACMs who are located must return the completed Verification /Employment Interest Form and Release of Claims to Trentwood within 30 days of receipt of the certified letter or forfeit any right to any relief.

Attachment A – Affected Class Members

1 Attachment B – Notification Letter

2 Attachment C – Address and Social Security Verification /Employment Interest Form

3 Attachment D – Release of Claims

Conciliation Agreement
Kaiser-Trentwood Works

In addition, within 105 days of the effective date of this Agreement, Trentwood will provide to OFCCP a list of any ACMs who have not responded to the notification. OFCCP will have an additional thirty (30) days from receipt of notice from Trentwood to find the missing ACMs and to provide contact information to Trentwood of those ACMs it was subsequently able to find. OFCCP will use its best efforts to contact the ACMs who have not responded. These best efforts include calling the ACMs at their last known telephone numbers to attempt to ascertain their mailing addresses. Within 20 days of the receipt of new information from OFCCP, Trentwood will notify the newly located ACMs of this Agreement and provide each such ACM with a verification form and release. Each newly located ACM will have 30 days after receipt of the notification letter to respond.

If OFCCP is unable to locate a class member within the timeframe outlined above and Trentwood does not receive a response from a ACM within 30 days of the ACM's receipt of the notification letter, the lack of response will be deemed to constitute a rejection of the financial settlement set forth in paragraphs (b) and (c) below. In that event, any and all back pay due to ACMs who were not found, or did not respond, will be equally distributed to the remaining located ACMs who responded within the 30-day period provided. All eligible ACMs who have signed and returned the release and interest form within 185 days of the effective date of this Agreement will equally share the financial settlement.

(b) Job Offers: Trentwood will extend bona fide written job offers until ^(b)₍₇₎ of the ACMs are hired into full-time status Operative positions.

Offers of employment to the ACMs shall be made no sooner than 185 days following the execution of this Agreement, as set forth below:

a. Any ACM who responds that they are interested in being considered for employment with Trentwood will bypass the written test and will proceed directly to the interview. The job offers shall be made in order of and based upon chronological date of the original application, earliest date offered first, until ^(b)_{(7)(E)} full-time job offers have been made and accepted, and ^(b)₍₇₎ full-time ACMs have reported to work or the class list is exhausted, whichever occurs first.

b. ACMs who accept an offer of employment will be given reasonable time of not less than fourteen (14) days and not more than thirty (30) days to report to work. Trentwood agrees to allow the female applicants to whom a job offer is made, at least five (5) days in which to accept or reject the job offer. If an ACM rejects the job offer or cannot be located and/or contacted, written documentation of his or her rejection or non-contact will be provided by Trentwood to OFCCP. Trentwood's obligation regarding the ACMs ends when the list of female ACMs has been exhausted. For each ACM who accepts a job offer, Trentwood agrees to pay the current prevailing entry-level wage and provide all regular and normal on-the-job training.

Conciliation Agreement
Kaiser-Trentwood Works

(c)Financial Settlement: Within 220 days from the effective date of this Agreement, Trentwood will equally distribute \$102,035.26 in back pay and \$ 25,702.05 in interest to the eligible ACMs. Such payment will constitute a full settlement of any and all financial claims related to this violation. Trentwood will submit documentation to OFCCP of payment of the financial settlement within 20 business days of the issuance of checks to the ACMs. The payments will be made in a lump sum to each ACM, less appropriate withholding deductions. Trentwood will send each ACM an appropriate W-2 form.

(d) Cease and Desist: Effective September 29, 2008, Trentwood discontinued the use of the Work Keys test and agreed to implement new selection procedures that do not cause females to be disproportionately screened out of the selection process for Operative positions.

(e)Retroactive Seniority: ACMs hired at Trentwood under this Agreement will be granted seniority for benefits eligibility purposes dating back to the time that they would have been hired had the alleged discrimination not occurred. Retroactive seniority will become effective on date of hire.

(f)Employment Process: Trentwood agrees to take proactive measures to ensure that this alleged violation does not recur. Within 60 days from the effective date of this Agreement, Trentwood agrees to do the following:

- Review its application and selection criteria and ensure that they are in technical compliance with the Uniform Guidelines on Employee Selection Procedures as provided in 41 CFR 60-3.
- Implement new selection procedures that do not disproportionately eliminate female applicants from consideration for Operative positions.
- Ensure that job qualifications are uniformly applied to all applicants.
- Provide training on compliance with Executive Order 11246, as amended, and its implementing regulations, to supervisory and management employees involved in Trentwood's selection process.
- Continue performing adverse impact analyses, at least annually, to oversee and monitor its selection process and placement results.

Trentwood agrees to provide safeguards to ensure that this violation does not recur.

PART III: REPORTING

Kaiser Aluminum Fabricated Products-Trentwood Works (hereinafter "Trentwood") agrees to retain records pertinent to the alleged Violation resolved by this Agreement. In order for the OFCCP to monitor compliance with this Agreement, Trentwood agrees to submit two reports. Trentwood shall send the reports to the U. S. Department of Labor, Office of Federal Contract Compliance Programs, Seattle District Office, 1111 3rd Ave, Suite 745, Seattle, WA 98101.

Report 1

Report due date: (8) eight months following the date on which the Regional Director signs this Agreement

Period covered: Effective date of Agreement through April 30, 2009

The first progress report shall contain the following:

1. Copies of cancelled checks for the back pay and interest distributed to the ACMs.
2. Copies of the notification letters Trentwood sent to the ACMs.
3. Copies of completed Address and Social Security Verification and Employment Interest Forms and Release of Claims submitted by ACMs to Trentwood.
4. Documentation of bona fide job offers made to all ACMs, including those who were hired at Trentwood as intermediate Operative positions following the date of this Agreement. Such documentation will include a list of ACMs offered jobs, the date of the job offer, the date the offer was accepted or rejected, the starting salary and the name of the immediate supervisor.
5. A list of all ACMs who were considered for employment pursuant to this Agreement but whom Trentwood determined did not successfully pass the interview, drug/alcohol screen, physical capacities exam or background check, including the screen(s) that each such person failed and the reason for Trentwood's determination the he or she failed the screen(s).
6. Provide OFCCP with documentation reflecting Trentwood's implementation of its new selection procedures which ensure that female applicants are not being disproportionately eliminated from consideration for Operative positions.

Report 2

Report due date: November 15, 2009

Period covered: May 1, 2009 through September 30, 2009

The second progress report shall contain the following:

1. Evidence that training on the selection process was provided to Trentwood management and that such training addressed compliance with Executive Order 11246, as amended, and its implementing regulations. Include the date and location of training, the names and positions of the managers who attended, the names and positions of the trainers, copies of training materials disseminated to the employees, and the cost of the training.
2. The total number of applicants and hires (applicant flow and hire logs) for Operative positions. The applicant log will show the name, specific race/ethnicity, gender, date of application, referral source, and disposition of each applicant for each phase in the selection process. The hire log will show the name, specific race/ethnicity, gender, referral source, date of hire and job title.
3. The results of the adverse impact analysis for applicants and hires for Operative positions for the period corresponding to the AAP for 4/1/2009 to 9/30/09.
4. If the total selection process for the Operative positions has a statistically significant adverse impact, as defined in 41 CFR 60-3.4D, an outline of the applicant selection process developed and implemented by Trentwood including a description of each stage in the selection process and the criteria used to evaluate applicants at each of those stages.
5. If the total selection process for the Operative positions has a statistically significant adverse impact, as defined in 41 CFR 60-3.4D, the results of Trentwood's evaluation of the individual components of the selection process for adverse impact.
6. Where appropriate, the actions taken by Trentwood after determining that any component of its selection process for Operative positions has a statistically significant adverse impact.

TERMINATION DATE:

This Agreement will remain in full force and effect for eighteen (18) months from the Effective Date of the Regional Director's signature of the Agreement or until the written acceptance of the second Progress Report, whichever is later.

Conciliation Agreement
Kaiser-Trentwood Works

PART IV: SIGNATURES

This Agreement is hereby executed by and between the Office of Federal Contract Compliance Programs, Kaiser Aluminum Fabricated Products-Trentwood Works located at 15000 East Euclid Ave, Spokane Valley, WA 99216, and United Steelworkers, Local 338 located at 14015 East Trent Ave, Spokane Valley, WA 99216.

DATE: 9/30/08

DATE: 9/30/08

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

Paul Stoyen-Mulholland
Director of Human Resources
Kaiser Aluminum Fabricated Products-
Trentwood Works
15000 East Euclid Ave
Spokane Valley, WA 99216

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

(b) (7)(C), (b) (7)(E)
EOS Tech Expert
Office of Federal Contract
Compliance Programs
Pacific Region

DATE: 9/30/08

DATE: 10/5/08

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

Lugh Jones
District Director
Office of Federal Contract
Compliance Programs
Seattle District Office

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

William D. Smitherman
Regional Director
Office of Federal Contract
Compliance Programs
Pacific Region

DATE: 9/30/2008

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

Dan Wilson
President
United Steelworkers
Local 338
Spokane Valley, WA 99216

Attachment B

NOTIFICATION LETTER

Certified Mail, Return Receipt Request

[Name]

Dated:

[Street]

[City, State, Zip Code]

Dear [Ms./Mr.] [Name]:

Kaiser Aluminum Fabricated Products-Trentwood Works (hereinafter "Trentwood") located at 15000 East Euclid Ave, Spokane Valley, Washington 99216 and the Department of Labor's Office of Federal Contract Compliance Programs (hereinafter "OFCCP") have entered into a Conciliation Agreement (hereinafter "CA") to resolve alleged disparities in hiring for Operative positions between April 1, 2004 and March 31, 2005. You have been identified as one of the individual who applied for such a position and was not hired during that time period.

As part of this CA, you are also eligible to receive a monetary distribution of at least \$ _____, subject to lawful payroll deductions. Under the terms of this CA, you may receive a payment up to eight (8) months from the date of this letter. In order to be eligible for this distribution, you must execute and return the following enclosed documents, (1) Address, Social Security Verification and Employment Interest Form and (2) Release of Claims, within thirty (30) days of your receipt of this letter to:

**PAUL STOYELL-MULHOLLAND
DIRECTOR OF HUMAN RESOURCES
KAISER ALUMINUM FABRICATED PRODUCTS- TRENTWOOD WORKS
15000 EAST EUCLID AVE
SPOKANE VALLEY, WASHINGTON 99216**

By entering into this CA, Trentwood has not admitted nor has there been any adjudicated finding that Trentwood violated any laws when it did not hire you for the Operative position. Trentwood has entered into this CA for its convenience and to resolve the matter without further legal proceeding.

In addition to the monetary distribution, Trentwood will be making job offers to some of the people who are receiving this notification. It is not certain that you will receive a job offer, however, if you are still interested in employment with Trentwood, please indicate so on the enclosed Address and Social Security Verification and Employment Interest Form.

If you choose to reapply, you will be subjected to an abbreviated application process. You will bypass the written test and proceed directly to the interview, drug/alcohol screen, physical capacities exam and background check.

If you fail to return any of the required documentation within the specified timeframe, you will be ineligible for monetary and/or other relief provided by this CA.

If you have any questions, you may call me at (509) 927-6447 and your call will be returned as soon as possible.

Sincerely,

**Paul Stoyell-Mulholland
Director of Human Resources
Kaiser Aluminum Fabricated Products-Trentwood Works**

**cc: (b) (7)(C), (b) (7)(E) EOS Technical Expert
U.S. Department of Labor**

**Enclosures: Address Verification and Employment Interest Form
Employment Application
Release of Claims**

Attachment C

Address and Social Security Verification and Employment Interest Form (Continued)

Yes, I am still interested in employment with Kaiser Aluminum Fabricated Products-Trentwood Works and enclosed is a completed application.

No, I am not currently interested in employment with Kaiser Aluminum Fabricated Products-Trentwood Works.

I certify the above as true and correct.

Signature

Date

Attachment D

RELEASE OF CLAIMS

In consideration of the payment by Kaiser Aluminum Fabricated Products- Trentwood Works of at least \$ _____, less deductions required by law, which I agree is acceptable, and also in consideration of the Conciliation Agreement between Kaiser Aluminum Fabricated Products-Trentwood Works and the Office of Federal Contract Compliance Programs (hereinafter "OFCCP"), I _____ agree to the following:

I.

I hereby waive, release and forever discharge Kaiser Aluminum Fabricated Products- Trentwood Works and its current and former officers, directors, agents, representatives, servants, employees, attorneys, subsidiaries, departments and units, sister corporations, parent corporations, affiliates, joint ventures, and related entities, as well as its predecessors, successors and assigns (hereinafter collectively referred to as "Kaiser Aluminum Fabricated Products-Trentwood Works"), of and from any and all actions, causes of action, damages, liabilities, and claims arising out of or actionable under Executive Order 11246, as amended, and/or 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), which I or my representatives (heirs, executors, administrators, or assigns) have or may have which relate in any way to my not being selected for employment at any time prior to the effective date of this Release.

II.

I understand that if I am concerned about how the process described in this Release applies to me, I may contact the OFCCP for assistance:

(b) (7)(C), (b) (7)(E)
EOS Technical Expert
U. S. Department of Labor/OFCCP
1111 3rd Ave, Suite 745
Seattle, WA 98101
Telephone Number: (206) 398- (b) (7)(C)

III.

I understand that Kaiser Aluminum Fabricated Products-Trentwood Works denies that it treated me unlawfully or unfairly in any way and that Kaiser Aluminum Fabricated Products-Trentwood Works entered into the above-referenced Conciliation Agreement with OFCCP in the spirit of conciliation and to bring closure to the Compliance Review initiated by OFCCP on March 9, 2006. I further agree that the payment of the aforesaid sum by Kaiser Aluminum Fabricated Products-Trentwood Works to me will not be offered or admitted as evidence in any proceeding or construed as an admission of any liability by Kaiser Aluminum Fabricated Products-Trentwood Works.

IV.

I declare that I have read this Release and that I have had a full opportunity to consider and understand its terms and to consult with my advisors. I further declare that I have decided of my own free will to sign this Release.

V.

I understand that if I do not sign this Release and return it to Paul Stoyell-Mulholland, Director of Human Resources, at Kaiser Aluminum Fabricated Products-Trentwood Works, 15000 East Euclid Ave, Spokane Valley, Washington, 99215, within thirty (30) days of my receipt of this Notice, I will not be entitled to receive the payment (less deductions required by law) from Kaiser Aluminum Fabricated Products- Trentwood Works.

IN WITNESS WHEREOF, I have set my hand to this Release on the _____ day of _____, 2008.

Signature

GE Lighting settles sex discrimination case with feds

Telegraph-Forum staff Published 5:22 p.m. ET Sept. 11, 2014 | Updated 3:03 a.m. ET Sept. 12, 2014



BUCYRUS – GE Lighting LLC has agreed to settle allegations of hiring discrimination after an investigation by the U.S. Department of Labor's Office of Federal Contract Compliance Programs.

Under the terms of the agreement, the federal contractor will pay \$537,000 in back wages and interest to 102 women who were rejected for entry-level attendant positions at the company's Bucyrus facility.

GE Lighting also will extend job offers to at least five of the original class members as positions become available, according to a news release from the U.S. Department of Labor.

"I am pleased that we were able to work out a fair and mutually agreeable resolution with GE Lighting," said OFCCP Director Patricia A. Shiu.

"The time is always right to shine a light on any and all barriers to equal opportunity in the workplace, and I encourage women who were previously denied jobs at GE's Bucyrus location to reconsider, secure in the knowledge that they will get a fair shake going forward."

"GE Lighting is committed to diversity, and we see diversity and inclusiveness as an essential part of our productivity, creativity, innovation and competitive advantage," the company said in a news release.

"The OFCCP's findings relative to our Bucyrus Lamp Plant are based on a statistical analysis of a selection test given to applicants for entry-level positions at the plant in 2009 and are not a result of any discrimination complaints or claims. This selection test, which had been used by a variety of employers across the country, is no longer used at any of our GE Lighting sites."

During a scheduled compliance review, OFCCP investigators found that GE Lighting used the WorkKeys test as part of its selection process, even though it was not properly supported by a validation study that satisfies the requirements of the "Uniform Guidelines on Employee Selection Procedures."

The agency concluded that GE Lighting's hiring process systematically discriminated against female applicants, a violation of Executive Order 11246, which prohibits federal contractors from discriminating in employment on the basis of sex.

GE added: "In addition to instituting a new vetted and approved applicant screening test, we have since taken additional voluntary measures, which have been recognized by the OFCCP, to further ensure diversity and equal opportunity standards at the Bucyrus Lamp Plant, such as improved record keeping and outreach to prior female applicants for new hiring at the plant.

"We are proud to have a diverse population within all of our sites. In Bucyrus, the plant is in the process of adding 70 new jobs, and as part of our recruiting efforts, we are reaching out to a diverse set of candidates, to include women, minorities, disabled individuals and veterans."

GE Lighting is a subsidiary of the Fairfield, Connecticut-based General Electric Co. In the past two years, GE Lighting held more than \$1.8 billion in federal contracts to provide machines and equipment to the Air Force, Navy, Army and Defense Logistics Agency.

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