

Conciliation Agreement
Between the
U.S. Department of Labor Office of Federal Contract Compliance Programs
and
Daikin Applied Americas AAHU

I. Preliminary Statement

The Office of Federal Contract Compliance Programs (OFCCP) evaluated Daikin Applied Americas AAHU (herein after "Daikin") establishment located at 300 24th Street, Faribault, MN 550217 beginning on January 29, 2020. OFCCP found that Daikin failed to comply with Executive Order 11246, as amended (E.O. 11246 or the Executive Order) and its respective implementing regulations at 41 CFR 60-2.17(b) and (c).

OFCCP notified Daikin of the specific violation and the corrective action required in a Notice of Violation (NOV) issued on October 27, 2021.

In the interest of resolving the violations without engaging in further legal proceedings and in exchange for sufficient consideration described in this document, OFCCP and Daikin enter into this Conciliation Agreement (Agreement) and its attachments, and the parties agree to all the terms therein.

II. General Terms and Conditions

1. In exchange for Daikin's fulfillment of all its obligations in this Agreement, OFCCP will not institute administrative or judicial enforcement proceedings under E.O. 11246, Section 503, and/or VEVRAA based on the violation(s) alleged in the NOV. However, OFCCP retains the right to initiate legal proceedings to enforce this Agreement if Daikin violates any provision of this Agreement, as set forth in Paragraph 11, below. Nothing in this Agreement precludes OFCCP from initiating enforcement proceedings based on future compliance evaluations or complaint investigations.
2. OFCCP may review Daikin's compliance with this Agreement. As part of this review, OFCCP may require written reports, inspect the premises, interview witnesses, and examine and copy documents. Daikin will permit access to its premises during normal business hours for these purposes and will provide OFCCP with all hard copy or electronic reports and documents OFCCP requests, including those specified in this Agreement.
3. Nothing in this Agreement relieves Daikin of its obligation to fully comply with the requirements of E.O. 11246, Section 503, VEVRAA, their implementing regulations, or other applicable laws requiring nondiscrimination or equal employment opportunity through affirmative action.
4. Daikin agrees that it will not retaliate against any potential or actual beneficiary of this Agreement or against any person who files a complaint, who has provided information or assistance, or who participates in any manner in any proceeding in this matter.

5. The parties understand the terms of this Agreement and enter into it voluntarily.
6. This Agreement constitutes the entire Agreement and represents the complete and final understanding of the parties. This Agreement contains all of the terms binding the parties and it supersedes all prior written and oral negotiations and agreements. Any modifications or amendments to this Agreement must be agreed upon in writing and signed by all parties. If an administrative error is found, OFCCP will work in good faith with all parties to make the corrections.
7. This Agreement becomes effective on the day it is signed by the District Director (Effective Date).
8. If one or more provisions of this Agreement is deemed unlawful or unenforceable, the remaining provisions will remain in full force and effect.
9. This Agreement will expire sixty (60) days after Daikin submits its final progress report required in Section IV, below, unless OFCCP notifies Daikin in writing before the expiration date that Daikin has failed to fulfill all of its obligations under the Agreement. In this instance, the Agreement is automatically extended until the date that OFCCP determines that Daikin has met all of its obligations under the Agreement.
10. If Daikin violates this Agreement:
 - a. The procedures at 41 C.F.R. 60-1.34 will govern:
 - i. OFCCP will send Daikin a written notice stating the alleged violation(s) and summarizing any supporting evidence.
 - ii. Daikin shall have fifteen (15) days from receipt of the notice to respond, except in those cases in which such a delay would result in irreparable injury to the employment rights of affected employees or applicants.
 - iii. If Daikin 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.
 - iv. In the event of a breach of this Agreement by Daikin, OFCCP may elect to proceed to a hearing on the entire case and seek full make-whole relief, and not be limited to the terms in the Agreement.
 - b. Daikin may be subject to the sanctions set forth in Section 209 of the Executive Order, 41 C.F.R. 60-1.27 and/or other appropriate relief for violating this Agreement.
11. Daikin does not admit any violation of the Executive Order, Section 503 or VEVRAA, nor has there been an adjudication on the merits regarding any such violation.

12. OFCCP may seek enforcement of this Agreement itself and is not required to present proof of any underlying violations resolved by this Agreement.
13. The parties understand and agree that nothing in this Agreement is binding on other governmental departments or agencies other than the United States Department of Labor.
14. Each party shall bear its own fees and expenses with respect to this matter.
15. This Agreement is limited to the facts of this case. Neither this Agreement, nor any part of the negotiations that occurred in connection with this Agreement, shall constitute admissible evidence with respect to any OFCCP policy, practice or position in any lawsuit, legal proceeding, administrative proceeding, compliance evaluation, or audit, except for legal or administrative proceedings concerning the enforcement or interpretation of this specific Agreement.
16. All references to "days" in this Agreement are calendar days. If any deadline for an obligation scheduled to be performed under this Agreement falls on a weekend or a Federal holiday, that deadline will be extended to the next business day.

III. Technical Violations and Remedies

Violation: During the period January 1, 2019 through December 31, 2019, Daikin did not develop and execute action-oriented programs designed to correct any problem areas identified pursuant to 41 CFR 60-2.17(b) and to attain established goals and objectives, as required by 41 CFR 60-2.17(c). Specifically, Daikin failed to establish an action-oriented program to correct the underutilization of females in the Craft Workers, Sr. Assembler and Assembly Operatives job groups and minorities in the Laborers job group. Daikin established a goal of 35% for females in its Craft Workers job group, 16% in its Sr. Assemblers job group, 52% in its Assembly Operatives job group, and 76% for minorities in its Laborers job group. Daikin provided insufficient evidence to demonstrate Daikin conducted targeted outreach toward females or minorities in order to recruit qualified females for the goals established in the Craft Workers, Sr. Assembly, or Assembly Operatives job groups or minorities in the Laborers job group.

Remedy: Daikin must develop and execute action-oriented programs designed to correct any problem areas identified pursuant to 41 CFR 60-2.17(b) and to attain established goals and objectives, as required by 41 CFR 60-2.17(c)

IV. OFCCP Monitoring Period

1. **Recordkeeping.** Daikin agrees to retain all records relevant to the violation cited in Section III above and the reports submitted in compliance with Paragraph 2, below. Specifically, Daikin must maintain letters, memos, emails, or any other documentary evidence generated through the normal course of business associated with its outreach. These records include underlying data and information such as Human Resources Information System (HRIS) and payroll data, job applications and personnel records,

and any other records or data used to generate the required reports. Daikin will retain the records until this Agreement expires or for the time period consistent with regulatory requirements, whichever is later.

2. Contractor Reports

Daikin agrees to furnish OFCCP with the two (2) reports during the Monitoring Period. The report will contain the documentation specified according to the dates scheduled:

- c. Progress Report 1: Due on August 1, 2022 covering January 1, 2022 through June 30, 2022.
- d. Progress Report 2: Due on February 1, 2023 covering July 1, 2022 through December 31, 2022.

For each Progress Report, Daikin must provide documentation of:

- i. Daikin's identification of problem areas and action-oriented programs Daikin has implemented to ensure there are no impediments to equal opportunity for females for the goals established in the Craft Workers, Sr. Assembly, or Assembly Operatives job groups or minorities in the Laborers job group.
- ii. Evidence (i.e. copies of letters, memos, e-mails, or other documents generated through the normal course of business) that Daikin has conducted targeted outreach with at least the community based organizations in the Attachment to the Conciliation Agreement. Evidence must show that these organizations were notified to recruit females for the goals established in the Craft Workers, Sr. Assembly, or Assembly Operatives job groups or minorities in the Laborers job group, within sufficient time prior to the closing date of the vacancies, consistent with business needs, in order for targeted organizations to find and refer qualified applicants.

Daikin will submit reports to Compliance Officer (b) (7)(C), (b) (7)(E) at 920 2nd Ave S, Suite 575, Minneapolis, MN 55402 or by email at (b) (6), (b) (7)(C) @dol.gov. Daikin and OFCCP have a common interest in the information being provided in the reports pursuant to this Agreement. To the extent any of the reports Daikin provides in accordance with this Agreement are trade secrets, commercial, and/or financial in nature, and customarily kept private or closely-held, and Daikin believes should remain confidential under Exemption 4 of the Freedom of Information Act (FOIA) in the event of a FOIA request, Daikin will provide such reports to OFCCP marked as "Confidential". In the event of a FOIA request, OFCCP will promptly notify Daikin of the FOIA request and provide Daikin an opportunity to object to disclosure. OFCCP will withhold disclosure of such reports to the maximum extent allowable by law.

- 3. **Close of Monitoring Period and Termination of Agreement.** This Agreement shall remain in effect until the monitoring period is completed. The monitoring period will close once OFCCP accepts Daikin's final progress report as set forth in Section II,

Paragraph 9 above. If OFCCP fails to notify Daikin in writing within sixty (60) days of the date of the final progress report that Daikin has not fulfilled all of its obligations under the Agreement, OFCCP will be deemed to have accepted the final report and the Monitoring Period and this Agreement will terminate. If OFCCP notifies Daikin within the allotted time that it has not fulfilled all of its obligations, this Agreement is automatically extended until the date that OFCCP determines Daikin has met all of its obligations under the Agreement.

V. SIGNATURES

The person signing this Agreement on behalf of Daikin personally warrants that he or she is fully authorized to do so, that Daikin has entered into this Agreement voluntarily and with full knowledge of its effect, and that execution of this Agreement is fully binding on Daikin.

This Agreement is hereby executed by and between the Office of Federal Contract Compliance Programs and Daikin, 300 24th Street, Faribault, MN 550217.

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

James Stickney
Director of Operations
Daikin Applied Americas AAHU
Faribault, MN

DATE: 11-10-21

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

Timothy Roark
District Director
Midwest

DATE: November 12, 2021

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

(b) (6), (b) (7)(E)

Compliance Officer
Midwest

DATE: November 12, 2021

Attachment

Outreach Sources

Life-Work Planning Center
201 North Broad Street, Suite 100
Mankato, MN 56001
Jean Keenan
Executive Director
(507) 345-1577

Minneapolis American Indian Center
1530 East Franklin Avenue
Minneapolis, MN 55404
Brian P. Joyce
WIOA Program Director
(612) 879-1770
bjoycemaicnet.org

YWCA Mankato
127 S 2nd St, Suite 200
Mankato, MN 56001
Natasha Lopez Rodriguez
Executive Director
(507) 345-4629

Intercultural Mutual Assistance Association
16 S.W. 7th Avenue
Rochester, MN 55902
Ahmed Osman
Program Manager
(507) 289-5960 ext. 108
ahmed.osman@imaa.net