

Conciliation Agreement

Between

The U.S. Department of Labor
Office of Federal Contract Compliance Programs

And

Bimbo Bakeries USA, Inc. - Bellevue

I. PRELIMINARY STATEMENT

The Office of Federal Contract Compliance Programs (“OFCCP”) is currently evaluating Bimbo Bakeries USA, Inc. (“BBUSA-Bellevue” or “Contractor”) at its establishment located at 1310 Fort Crook Road, Bellevue, Nebraska 68005, and is alleging that the Contractor was not in compliance with Executive Order 11246 as amended (“E.O. 11246” or “Executive Order”), and its implementing regulations at 41 Code of Federal Regulations (“C.F.R.”) Parts 60-1 through 60-3. OFCCP has not issued any formal notice of alleged violations regarding the establishment, and there have not been any adjudicated findings.

In the interest of resolving the alleged violations without engaging in further legal proceedings and in exchange for sufficient and valuable consideration described in this document, OFCCP and BBUSA-Bellevue (collectively “the parties”) enter into this Early Resolution Conciliation Agreement (“Agreement”), and the parties agree to all the terms therein. The attachments to this Agreement are deemed incorporated into this Agreement.

II. GENERAL TERMS AND CONDITIONS

1. In exchange for BBUSA-Bellevue’s fulfillment of all its obligations in this Agreement, OFCCP agrees not to institute administrative or judicial enforcement proceedings under E.O. 11246, based on the alleged violations 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 below if BBUSA-Bellevue violates this Agreement. Nothing in this Agreement precludes OFCCP from initiating enforcement proceedings based on future compliance evaluations or complaint investigations.
2. BBUSA-Bellevue 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 as may be relevant to the matter under investigation and pertinent to BBUSA-Bellevue’s compliance. BBUSA-Bellevue will permit access to its premises during normal business hours for these purposes and will provide OFCCP with all reports and documents required.

3. This Agreement does not constitute an admission by BBUSA-Bellevue of any violation of or noncompliance with E.O. 11246; Section 503 of the Rehabilitation Act of 1973, as amended (“Section 503”); the Vietnam Era Veterans’ Readjustment Assistance Act of 1974 (“VEVRAA”) and their implementing regulations at 41 C.F.R. Chapter 60; or other laws, nor has there been an adjudication on the merits regarding any such violation.
4. BBUSA-Bellevue understands that nothing in this Agreement relieves the Contractor of its obligation to fully comply with the requirements of E.O. 11246, Section 503, VEVRAA, their implementing regulations, and other applicable equal employment opportunity laws.
5. BBUSA-Bellevue 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.
6. OFCCP and BBUSA-Bellevue (“the parties”) understand the terms of this Agreement and enter into it voluntarily.
7. This Agreement, including its attachments, 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.
8. If one or more provisions of this Agreement are rendered unlawful or unenforceable, the remaining provisions will remain in full force and effect.
9. This Agreement becomes effective on the day it is signed by OFCCP’s Regional Director for the Midwest Region (the “Effective Date”).
10. This Agreement will expire sixty (60) days after BBUSA-Bellevue submits its final progress report required in Part VI, below, unless OFCCP notifies BBUSA-Bellevue in writing prior to the expiration date that BBUSA-Bellevue has not fulfilled all of its obligations under the Agreement, in which case the Agreement is automatically extended until the date OFCCP determines BBUSA-Bellevue has met all of its obligations under the Agreement.
11. Each party shall bear its own fees and expenses with respect to this matter.
12. If BBUSA-Bellevue violates this Agreement:
 - a. The procedures at 41 C.F.R. 60-1.34 will govern:
 - i. OFCCP will send BBUSA-Bellevue a written notice stating the alleged violations and summarizing any supporting evidence.

- ii. BBUSA-Bellevue shall have fifteen (15) days from receipt of the notice to demonstrate in writing that it has not violated the Agreement, unless such a delay would result in irreparable injury to the employment rights of affected employee or applicants.
 - iii. If BBUSA-Bellevue 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 BBUSA-Bellevue, 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 agreed to in the Agreement.
13. BBUSA-Bellevue may be subject to the sanctions set forth in Section 209 of the Executive Order, and/or other appropriate relief for violating this Agreement.
14. 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, and cannot be used as evidence that the Contractor is not in compliance with any applicable federal, state, or local laws, including but not limited to E.O. 11246, Section 503, and VEVRAA. Contractor and OFCCP agree that any release of claims required by this Agreement will only pertain to claims under E.O. 11246, Section 503, and/or VEVRAA.
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 either party's policies, practices, or positions 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.
17. This Agreement is between OFCCP and the Contractor and does not confer any rights or benefits to any other parties, other than any successor to, parent of, or subsidiary of the Contractor.

III. PRELIMINARY FINDINGS

1. Selection Disparities.

OFCCP alleges that BBUSA-Bellevue discriminated against female applicants who applied for “jobber” positions (hereinafter referred to as “bakery helper positions”)¹ at the Bellevue, Nebraska establishment, in violation of E.O. 11246 and its implementing regulations at 41 C.F.R. 60-1.4(a)(1). Specifically, OFCCP found statistically significant differences in the hiring rates of these female applicants for bakery helper positions when compared to similarly, qualified male applicants during the January 1, 2018, through June 30, 2019 time period (“OFCCP review period”). The parties have agreed to a shortfall of seven (7) female hires.

IV. FINANCIAL REMEDY AND NONFINANCIAL REMEDY

1. Settlement Fund

- a. **Settlement Fund Account.** BBUSA-Bellevue agrees to pay a total of \$131,216.02 in back pay and interest. This settlement fund is a negotiated amount that represents estimated back pay and accrued interest. BBUSA-Bellevue’s share of contributions/taxes on the portion representing back pay (such as federal, state and/or local statutory taxes and Federal Income Contributions Act (FICA) is not part of the Settlement Fund.
- b. **Specific Settlement Fund Amounts.** The total Settlement Fund amount includes \$117,875.61 in back pay and \$13,340.41 interest to resolve the specific violation set forth above in Part III.

2. Notice Process

- a. **OFCCP and BBUSA-Bellevue’s Obligations under the Notice Process.** The Notice Process set forth in this Agreement is intended to provide Affected Class Members, listed in Attachment A, and identified as having been affected by the selection practices at issue, a meaningful opportunity to understand their rights and obligations and act on them in a timely manner. This process includes providing Affected Class Members with notice in multiple relevant languages, if appropriate and as agreed to by the parties, and providing technical assistance to Affected Class Members seeking information about their rights and obligations under this Agreement. OFCCP and BBUSA-Bellevue agree not to withhold consent to reasonable modifications proposed by either party.
- b. **Distribution of Mail Notice to Affected Class Members.** By the date(s) set forth in the Timeline (Attachment B), BBUSA-Bellevue will provide initial and subsequent

¹ Entry-level positions in production and distribution/shipping at BBUSA-Bellevue were previously referred to as “jobbers” in the applicable collective bargaining agreement during the OFCCP review period. For purposes of this Agreement, the “bakery helper” job title represents all entry-level hourly positions in production and shipping/distribution at the BBUSA-Bellevue. These positions include, but are not limited to, bakery helper, bakery helper – production, bakery helper – shipping or distribution, checker loader, general production, and production associate.

notices to Affected Class Members by regular first-class mail. BBUSA-Bellevue will send copies of all of the notice documents to Affected Class Members consistent with the sample notice documents contained in Attachments C, D, and E, which include Notice documents, Information Verification & Employment Interest Form, and Release form. The Notice documents will make clear the information about the settlement. The Notice documents will also include a postage-paid return envelope, by first class mail to the best available mailing address for each Affected Class Member. If envelopes from the initial mail notice are returned with forwarding addresses, BBUSA-Bellevue will re-mail the Notice documents within five (5) business days of receipt of a forwarding address.

Based on the response to the initial mail notice, the parties will meet and confer by the date set forth in the Timeline to assess the results of the initial mail notice and to ensure that the second round of mail notice maximizes the potential response rate. OFCCP may also conduct independent efforts to communicate with Affected Class Members about this Agreement and provide updated information to BBUSA-Bellevue. A second mail notice will be sent to Affected Class Members with updated valid addresses who fail to respond to the first mail notice unless the parties agree otherwise.

- c. **Notice Deadline.** The final deadline for any Affected Class Member to respond to the Notice documents is set forth in the Timeline. The notices and all materials sent to Affected Class Members will prominently display this deadline, and explain that failure to respond by this deadline will result in a forfeiture of any relief provided by this Agreement.
- d. **Exchange of Information Regarding Affected Class Members.** BBUSA-Bellevue and OFCCP will timely exchange information regarding Affected Class Members, including updated contact information.
- e. **Final List of Eligible Affected Class Members.** The Final List will include all Affected Class Members who timely respond to the Notice by the deadline set forth in the Notice documents, and whose eligibility is verified by OFCCP (referred to as “Eligible Affected Class Members”). These individuals who complete, date, and execute all documents by the deadline will be listed on the Final List of Eligible Affected Class Members (“Final List”). The parties will establish the Final List by the date set forth in the Timeline. The parties will meet and confer on any outstanding issues or questions regarding the Final List. Either party may identify potentially eligible affected class members who may have been erroneously excluded from the original or any subsequent list. OFCCP shall make the final determinations of eligibility but will make every effort to negotiate in good faith to resolve any dispute about the Final List. BBUSA-Bellevue will provide to OFCCP any information necessary to determine the Final List.

- f. **BBUSA-Bellevue's Expenses.** BBUSA-Bellevue will pay all expenses associated with carrying out its duties pursuant to this Part, from funds separate and apart from the amount designated in this Agreement for the Settlement Fund.

3. Allocation

- a. **Total Amount to be Allocated.** The back pay and interest amounts of the Settlement Fund will be distributed equally among the Eligible Affected Class Members as explained in this section. Individual shares will include appropriate deductions from each individual's share of payroll deductions required by law on the portion representing back pay only, such as insurance premiums or federal (FICA/FUTA), state, and local taxes.
- b. **Eligible Affected Class Members to Receive Payments.** The Settlement Fund will be distributed equally among all Eligible Affected Class Members on the Final List. The process of determining the Final List is explained above under the Notice Process (Paragraph 2) of this Agreement. OFCCP will determine the pro-rata amounts for each Eligible Affected Class Members based on the formula or other terms provided in this Agreement. All Eligible Affected Class Members are entitled to their share of the monetary settlement regardless of whether they are currently interested in employment with BBUSA-Bellevue.
- c. **Payments to Eligible Affected Class Members.** OFCCP will provide BBUSA-Bellevue a list of the payment amounts for each Eligible Affected Class Member on the Final List by the date set forth on the Timeline. BBUSA-Bellevue's designated claims administrator will issue checks to each Eligible Affected Class Member in the stated amount, along with appropriate tax reporting forms (such as W-2 and IRS Form 1099) by the date set forth on the Timeline. Any check that remains uncashed 120 days after the initial date the check was mailed to the Eligible Affected Class Members will be void. With respect to any uncashed checks, BBUSA-Bellevue will deposit the monies in the name of any Eligible Class Member who did not cash her check with the Nebraska Unclaimed Property Division in accordance with any and all state and local applicable laws and regulations (www.nebraskalostcash.nebraska.gov). No portion of these funds shall revert directly or indirectly, to BBUSA-Bellevue or any of its affiliates. BBUSA-Bellevue will notify each class member whose check is sent to the Nebraska Unclaimed Property Division.
- d. **Tax Payments, Forms and Reporting.** BBUSA-Bellevue will pay the employer's share of social security withholdings and any other tax payments required by law from additional funds separate from the Settlement Fund. BBUSA-Bellevue's designated claims administrator shall mail to each Eligible Affected Class Member an IRS Form W-2 for the portion of the payments representing back pay and an IRS Form 1099 for the portion of the payments representing interest. These IRS forms will be provided to the Eligible Affected Class Members at the time of payment. No Eligible Affected

Class Member will be required to complete a W-4 or I-9 in order to receive payments under this settlement.

- e. **Documentation of Payments.** By the deadline set forth in the Timeline, BBUSA-Bellevue will provide OFCCP with copies of cancelled checks or electronic documentation of all payments made to Eligible Affected Class Members, including the amounts paid, the date payment was sent, the date payment was received, if available, or the check cashed, and any uncashed or returned checks BBUSA-Bellevue also will submit proof of unchecks deposited with the Nebraska Unclaimed Property Division.

4. **Nonmonetary Relief**

a. **Job Opportunities**

As vacancies occur in bakery helper positions, BBUSA-Bellevue shall make bona fide job offers to Eligible Affected Class Members who have: (1) expressed interest in employment per the Information Verification Form & Employment Interest Form, (2) are not currently employed by BBUSA-Bellevue or any other BBUSA location, and (3) meet the below stated-job requirements, until seven (7) Eligible Affected Class Members are hired or the list of Eligible Affected Class Members is exhausted, whichever comes first. Eligible Affected Class Members must meet the following job requirements in order to be provided a job offer under the terms of this Agreement: (1) complete and submit an updated application, (2) be age 18 or over, (3) be eligible to work in the United States, and (4) meet the qualifications for the bakery helper position offered. As vacancies occur in the bakery helper position, and provided that the Eligible Affected Class Member has met the job requirements listed, BBUSA-Bellevue shall contact the Eligible Affected Class Members with a written job offer in the order in which the Eligible Affected Class Members submitted their Information Verification Form & Employment Interest Form or, if the Forms were received on the same day, in the order of their original application date.

Eligible Affected Class Members hired pursuant to this Agreement shall: (1) submit to and pass all required post-offer, pre-employment screens and reference checks, and (2) must report to work no later than fourteen (14) days after the date the written job offer is accepted. If the Eligible Affected Class Member is unable to report to work on the day designated, she must provide BBUSA-Bellevue with notice of good cause for the absence on or before the set date. If good cause is provided, the Eligible Affected Class Member must then report to work within five (5) days of the original designated start date. If an Eligible Affected Class Member does not report to work, the job offer will be withdrawn and BBUSA-Bellevue shall be under no obligation to hire the Eligible Affected Class Member under this Agreement, but remains obligated to hire until seven (7) bakery helper positions are filled or the list of Eligible Affected Class Members is exhausted, whichever comes first.

BBUSA-Bellevue agrees to pay Eligible Affected Class Members hired under this provision at least the current entry-level wage, as set forth in the applicable collective bargaining agreement, for a new hire into the bakery helper position, and provide all regular and on-the-job training currently provided to associates in that position.

BBUSA-Bellevue will document the job offers and hires, including job offers made, reasons for rejection, and Eligible Affected Class Members hired and terminated during the monitoring period as set forth in Part VI (Monitoring), below.

b. Modifications to Employment Practices. BBUSA-Bellevue shall ensure all applicants are afforded equal employment opportunities. BBUSA-Bellevue represents that they have ceased using any selection procedures, practices, and/or policies that negatively affected the hiring of female applicants into bakery helper positions. BBUSA-Bellevue shall continue and/or implement the corrective actions detailed below.

i. Eliminate Discriminatory Selection Procedures: BBUSA-Bellevue shall comply with all OFCCP regulations concerning selection procedures, including 41 C.F.R. 60-3. BBUSA-Bellevue will not use any selection procedure that has an adverse impact, as defined in 41 C.F.R. 60-3.4D, on applicants of a particular sex unless BBUSA-Bellevue properly validates the procedure pursuant to these regulations.

ii. Recordkeeping and Retention:

BBUSA-Bellevue shall implement procedures to ensure that applicants are tracked and selection decisions are documented at each step in the hiring process. BBUSA-Bellevue represents it has written and implemented procedures and commits to maintaining documents and information needed to generate required reports in accordance with 41 C.F.R. 60-1.12 (a) and 60-3.

Pursuant to 41 C.F.R. 60-1.12, BBUSA-Bellevue will ensure that records on BBUSA-Bellevue's revised policies and procedures, including supporting underlying data and information in human resources information and payroll systems, job applications, applicant and hire data, disposition codes, personnel records, and any other records or data used to generate the required reports.

iii. Training: Within sixty (60) days of the Effective Date of this Agreement, BBUSA-Bellevue shall provide initial training and design a system of ongoing training for managers and all individuals involved in recruiting, selecting, or tracking of applicants for bakery helper positions. The training shall focus on equal opportunity in hiring. The training will include (but is not limited to) instructions in: the implementation of the BBUSA-Bellevue's recruitment process, applicant tracking, and selection procedures; neutral application of the qualifications and criteria that are used at each step in the hiring process; procedures followed 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 60-3. BBUSA-Bellevue shall maintain a list of associates who attended the training.

- iv. **Monitoring:** BBUSA-Bellevue shall monitor selection rates at each step of its selection process for bakery helper positions. If it is determined that a selection procedure has an adverse impact, as defined in 41 C.F.R. 60-3.4D, on the hiring of applicants of a particular race or gender, BBUSA-Bellevue will review the procedure and either eliminate the procedure, choose an alternative procedure, or validate the procedure in accordance with the Uniform Guidelines on Employee Selection Procedures, codified at 41 C.F.R. 60-3. BBUSA-Bellevue shall maintain and make available to OFCCP records concerning the impact of the selection process for bakery helper positions at the Bellevue, Nebraska facility. These records must include the number of persons applied and hired by gender 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.

V. TECHNICAL VIOLATIONS AND REMEDIES

1. **VIOLATION:** During the period of January 1, 2018, through June 30, 2019, OFCCP alleges that BBUSA-Bellevue failed to perform in-depth analyses of its total employment process to determine whether and where impediments to equal employment opportunity exists, as required by 41 C.F.R. 60-2.17(b). Specifically, OFCCP alleges that BBUSA-Bellevue had hiring activity that showed statistically significant adverse impact against females during the review period, and BBUSA-Bellevue failed to conduct in-depth analyses of the cause of the adverse impact.

REMEDY: BBUSA-Bellevue shall perform in-depth analysis of its total employment process to determine whether and where impediments to equal employment opportunity exist as required by 41 C.F.R. 60-2.17(b). Specifically, BBUSA-Bellevue represents it has since evaluated individual components of the selection process and has made adjustments, and will continue to evaluate the total selection process to determine if an adverse impact in selection exists. BBUSA-Bellevue shall make this evaluation in accordance with the requirements of 41 C.F.R. 60.3.4(c).

2. **VIOLATION:** During the period of January 1, 2018, through June 30, 2019, OFCCP alleges that BBUSA-Bellevue failed to develop and implement an auditing system that periodically measures the effectiveness of its total affirmative action program. Specifically, OFCCP alleges that BBUSA-Bellevue did not monitor its hiring processes, nor did it internally report on or review with all levels of management, its affirmative action program. This is a violation of 41 C.F.R. 60-2.17(d).

REMEDY: BBUSA-Bellevue shall develop and implement an auditing system that will periodically:

- a. Monitor records of all personnel activity including referrals, placements, transfers, promotions, terminations, and compensation at all levels to ensure the nondiscriminatory policy is carried out;
- b. Require internal reporting on a scheduled basis as to the degree to which equal employment opportunity and organizational objectives are attained;
- c. Review report results with all levels of management who supervise other associates and who have responsibility for hiring, promotions/transfers, terminations, and compensation decisions; and
- d. Advise top management of program effectiveness and submit recommendations to improve unsatisfactory performance.

VI. REPORTS REQUIRED DURING OFCCP MONITORING PERIOD

1. **Recordkeeping.** BBUSA-Bellevue shall retain all records relevant to the violations cited in the Parts above and the reports submitted in compliance with Paragraph 2 of this Agreement, below. These records include underlying data and information such as Human Resources Information and payroll systems, electronic job applications, and personnel records, and any other records or data used to generate the required reports. BBUSA-Bellevue shall retain the records until this Agreement expires or for the time period consistent with regulatory requirements, whichever period is longer.
2. **Contractor Reports.**
 - a. **Schedule and Instructions.** BBUSA-Bellevue shall furnish OFCCP with the following reports during the Monitoring Period (defined in Paragraph 3, below) according to the following schedule:
 - i. **Progress Report 1:** Will be due 13 months after the Effective Date of the Agreement and will cover the timeframe from the Effective Date of this Agreement through twelve months after the Effective Date.
 - ii. **Progress Report 2:** Will be due 12 months after the first report covering the period of the 13th month through the 24th month following the Effective Date.

BBUSA-Bellevue shall submit reports to (b) (6), (b) (7)(E) Compliance Officer, at (b) (6), (b) (7)(C) @dol.gov. BBUSA-Bellevue 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 BBUSA-Bellevue provides in accordance with this Agreement are customarily kept private or closely-held, and that BBUSA-Bellevue believes should remain confidential under Exemption 4 of Freedom of Information Act (FOIA).

BBUSA-Bellevue will provide such reports to OFCCP marked as “Confidential”. In the event of a FOIA request, OFCCP will treat any such documents received as confidential documents to the extent permitted by law.

- b. **Reports on Job Offers to Eligible Affected Class Members.** In each Progress Report, BBUSA-Bellevue will report on all job offers and hires made to date pursuant to the Agreement until seven (7) Eligible Affected Class Members are hired or the list of Eligible Affected Class Members expressing interest in the positions is exhausted. This includes:
- i. Documentation of all job offers made to Eligible Affected Class Members, including the names of individuals offered jobs, the date of the application, the date of the offer, the date the offer was accepted or rejected, and the starting hourly pay rate.
 - ii. Documentation of Eligible Affected Class Members who expressed interest in job offers who did not successfully complete the application process, including the names of these individuals, the date of their application, if any, and the reason BBUSA-Bellevue determined they did not successfully complete the application process. This includes individuals who did not receive job offers because all available positions were filled.
 - iii. Documentation of Eligible Affected Class Members who were hired and terminated during the life of this Agreement and the reason for the termination.
 - iv. Documentation of the number of bakery helper positions remaining to be filled and the number of Eligible Affected Class Members still on the list.
 - v. Documentation of the start dates for Eligible Affected Class Members who were hired.
 - vi. If BBUSA-Bellevue has not filled all of the positions specified in this Agreement by submission of the First Progress Report date, documentation of the reason(s) this action is not complete and the good faith efforts being taken and planned for the next reporting period to complete it.
 - vii. If BBUSA-Bellevue fails to meet its hiring obligations pursuant to the terms of this Agreement by the close of the Monitoring Period, OFCCP reserves its rights under Part II, Paragraphs 9 and 10 of this Agreement to extend the Monitoring Period or to pursue enforcement remedies.
- c. **Affirmative Action Programs.** BBUSA-Bellevue will submit a copy of its current year AAP narrative for E.O. 11246 with the first Progress Report, which will identify the job titles included in each job group.

- d. **Reports on Modifications to Personnel Practices.** In each Progress Report, BBUSA-Bellevue will report on all modifications of personnel practices made to date pursuant to the Agreement and provide documentation of its compliance with the remedy provisions of this Agreement. If any of the relevant documents such as job postings or policies have not been modified since being provided during a prior reporting period, a statement to that effect is sufficient. The reports must include:
 - i. No later than ninety (90) days from Effective Date, BBUSA-Bellevue must submit a report on revisions made to its application and hiring processes since the review period, as stated in Part IV, Paragraph 4b.
 - ii. No later than ninety (90) days from Effective Date, BBUSA-Bellevue must submit documentation that all managers, supervisors, and other personnel involved in recruiting, selecting, tracking applicants, or onboarding new hires for the bakery helper positions at the Bellevue, Nebraska establishment have been trained on the 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, as stated in Part IV, Paragraph 4b(iii) of this Agreement.
 - iii. Within the prescribed timeframes listed in Attachment B, BBUSA-Bellevue must submit all documents and information referenced in Parts IV – VI of this Agreement.
- e. **Reports on Hiring Activity and Analysis.** In each Progress Report, BBUSA-Bellevue will report on select hire and termination activity in the bakery helper position. This includes:
 - i. The total number of applicants and hires into the bakery helper position, including the breakdown by gender of all applicants and hires for bakery helper positions during the reporting period, including all temporary, part-time, full-time, and seasonal workers;
 - ii. The total number of terminations for the bakery helper position, including a breakdown by gender and voluntary or involuntary status.
 - iii. For bakery helper positions, the results of BBUSA-Bellevue's analysis as to whether its total selection process has an adverse impact based on gender, as defined in 41 C.F.R. 60.3.4D, and set forth in 41 C.F.R. 60.3.4B. (For purposes of the adverse impact analysis, BBUSA-Bellevue must not include hires made pursuant to this Agreement in that analysis).
 - iv. For each case in which the total selection process has an adverse impact based on gender, as defined in 41 C.F.R. 60-3.4D, the results of BBUSA-Bellevue's evaluation of the individual components of the selection process for adverse impact.

- v. The actions taken by BBUSA-Bellevue upon determining that any component of the selection process has an adverse impact based on gender as set forth in Part III above.
 - vi. The in-depth analyses performed by BBUSA-Bellevue pursuant to item iii and iv above.
3. **Close of Monitoring Period and Termination of Agreement.** This Agreement will remain in effect until the Monitoring Period is completed. The Monitoring Period will close once OFCCP accepts BBUSA-Bellevue's final progress report as set forth in Part II, Paragraph 10 above. If OFCCP fails to notify BBUSA-Bellevue in writing within sixty (60) days of the date of the final progress report submission that BBUSA-Bellevue 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 BBUSA-Bellevue within the allotted time that it has not fulfilled all of its obligations, this Agreement is automatically extended until the date that OFCCP determines BBUSA-Bellevue has met all of its obligations under the Agreement.

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VII. SIGNATURES

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

This Agreement is hereby executed by and between the Office of Federal Contract Compliance Programs and BBUSA-Bellevue., 1310 Fort Crook Road, Bellevue, Nebraska 68005-4239.

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

Jonathan Berger
Vice President, Human Relations
Bimbo Bakeries USA, Inc.

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

Carmen Navarro
Regional Director
Midwest Region, OFCCP

DATE: 02/21/2022

DATE: 02/23/2022

Attachments:

- A. List of Affected Class Members
- B. Timeline
- C. Notice Documents
- D. Information Verification & Employment Interest Form
- E. Release of Claims

ATTACHMENT C
NOTICE TO AFFECTED CLASS

Dear *[name]*:

Bimbo Bakeries USA, Inc. (“BBUSA-Bellevue”) and the Department of Labor’s Office of Federal Contract Compliance Programs (“OFCCP”) have entered into a Conciliation Agreement (“Agreement”) to remedy alleged violations of Executive Order 11246, as amended, which OFCCP found during a compliance review of BBUSA Bellevue, Nebraska facility.

OFCCP’s analysis of BBUSA-Bellevue’s hiring process and selection procedures revealed that during the period of January 1, 2018, through June 30, 2019, BBUSA-Bellevue allegedly discriminated against female applicants for the entry-level bakery helper position. OFCCP found that there was a disparity in the hiring of bakery helpers based on gender. BBUSA-Bellevue has not admitted to any violation of E.O. 11246 or any other laws and there has not been any adjudicated finding that BBUSA-Bellevue violated any laws. OFCCP and BBUSA-Bellevue entered into the Agreement to resolve the matter without resorting to further legal proceedings.

You have been identified as an individual who applied for an entry-level bakery helper position during that time period, but was not hired.

As part of this Agreement, you are eligible to receive a distribution of at least \$892.62, less lawful payroll deductions. Under the terms of this Agreement, it may take up to eight (8) months from the date of this letter before you receive your monetary distribution. In order to be eligible for a payment, you must complete, sign, and return the enclosed Information Verification & Employment Interest Form and Release of Claims Form. The form(s) should be mailed as soon as possible to the address below. **In order for you to be eligible to participate in the settlement, your documents must be received by JULY____, 2022.**

[Claims Administrator]
[Position]
[Contractor]
[Address]

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

In addition to the monetary distribution, BBUSA-Bellevue will be making job offers for entry-level bakery helper positions to a limited number of individuals receiving this Notice. It is not certain that you will receive a job offer. If you are still interested in employment with BBUSA-Bellevue, please check the appropriate box on the enclosed Information Verification & Employment Interest Form. Those receiving this Notice will be considered for entry-level bakery helper positions in the order that BBUSA-Bellevue receives the Information Verification & Employment Interest Form expressing an interest in employment with BBUSA-Bellevue. All individuals hired pursuant to this Agreement will still be provided the distribution of at least \$892.62. If you have any questions you may call *[name]* at Rust Consulting Inc. at *[phone]*

number], or OFCCP Compliance Officer (b) (6), (b) (7)(E) at (b) (7)(E), (b) (6). Your call will be returned as soon as possible.

IF YOU FAIL TO COMPLETE AND RETURN THE ENCLOSED DOCUMENTS TO BBUSA-BELLEVUE'S CLAIMS ADMINISTRATOR IDENTIFIED IN THIS NOTICE BY JULY _____, 2022, YOU WILL NOT BE ELIGIBLE TO RECEIVE A PAYMENT OR TO BE CONSIDERED FOR A JOB OFFER.

Sincerely,

[Name]

Enclosures
Information Verification & Employment Interest Form
Release of Claims Form

ATTACHMENT D

INFORMATION VERIFICATION & EMPLOYMENT INTEREST FORM

You must complete this form in order to be eligible for the monetary payment and/or employment opportunities under the terms of the Conciliation Agreement (“Agreement”) between Bimbo Bakeries USA, Inc. located at 1310 Fort Crook Road, Bellevue, Nebraska 68005 (“BBUSA-Bellevue”) and the Department of Labor’s Office of Federal Contract Compliance Programs. Please print legibly, except for the signature.

Name: _____
Address: _____
Telephone Nos.: Home: _____ Cell: _____ Work: _____
Email: _____

Notify BBUSA-Bellevue at the address below if your address, email address, or phone number changes within the next twelve (12) months.

Your Social Security Number (to be used for tax purposes only) ----- _____

For purposes of this settlement, it is necessary to verify your gender: (please indicate)

- female
- male

Please indicate below whether you are currently interested in employment in an entry-level bakery helper position with BBUSA-Bellevue. If you complete, sign, and return this Information Verification and Employment Interest Form, you remain eligible for the monetary payment whether or not you are interested in employment at this time.

Yes, I am still interested in employment with BBUSA-Bellevue as an entry-level bakery helper. I understand that I must meet the entry-level bakery helper position requirements in order to be considered for a conditional job offer; (a) Complete and submit an updated application, (b) Age 18 or over, (c) Eligible to work in the United States, (d) Meet the qualifications for the entry-level bakery helper position offered^{1,2}, (e) Agree to accept wages, work hours, overtime and shift requirements, according to BBUSA-Bellevue’s needs and

¹ Bakery helper positions require the following qualifications: (1) high school diploma or GED preferred, (2) able to lift up to 50 lbs., carry pans and ingredient containers, and/or may require push/pull product utilizing a dolly system or pallet jack, (3) ability to stand and/or stoop for the full shift and may require lifting, bending, twisting, excessive walking, and constant standing, (4) work irregular and/or rotating shifts,(5) work on holidays and weekends as required, (6) work around and with food machinery equipment, and (7) ability to work in a loud and hot/cold environment.

assignments, (f) Submit to and pass all required post-offer, pre-employment screens and reference checks. No relocation assistance will be offered.

No, I am not currently interested in employment with BBUSA-Bellevue as an entry-level bakery helper.

IF YOU FAIL TO COMPLETE AND RETURN THE ENCLOSED DOCUMENTS TO THE ADDRESS BELOW BY JULY_, 2022, YOU WILL NOT BE ELIGIBLE TO RECEIVE A PAYMENT OR TO BE CONSIDERED FOR A JOB OFFER.

*[Claims administrator]
[Address]*

I, (print name) _____, certify the above is true and correct.

Signature

Date

ATTACHMENT E
RELEASE OF CLAIMS UNDER: EXECUTIVE ORDER 11246, AS AMENDED

This Release of Claims (“Release”) under Executive Order 11246, as amended, is a legal document. This document states that in return for Bimbo Bakeries USA, Inc. (“BBUSA-Bellevue”) paying you money, you agree that you will not file any lawsuit against BBUSA-Bellevue for allegedly violating: Executive Order 11246, as amended, in connection with its selection procedures for applicants for entry-level bakery helper positions. It also says that BBUSA-Bellevue does not admit it violated any laws. This Release says you had sufficient time to look at the document, to talk with others about the document, including an attorney if you choose, and that no one pressured you into signing the document. Finally, it says that if you do not sign and return the document by a certain date, you will not receive any money.

In consideration of the payment of at least \$892.62 (less deductions required by law) by BBUSA-Bellevue to me, which I agree is acceptable, I, (print name) _____, agree to the following:

I.

I hereby waive, release and forever discharge BBUSA-Bellevue, its predecessors, successors, related entities, parents, subsidiaries, affiliates and organizations, and their shareholders, directors, officers, employees, agents, successors, and assigns (herein referred to collectively as “BBUSA-Bellevue”), 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, which I or my representatives (heirs, executors, administrators, or assigns) have or may have had which relate to my non-selection for employment as an entry-level bakery helper on the basis of my gender at any time through the date of signature “Effective Date of this Release”. By signing this agreement, I agree that I have been made whole for any claim that could have been brought under Executive Order 11246, as amended, relating to my non-selection with BBUSA-Bellevue through the Effective Date of this Release.

II.

I understand that BBUSA-Bellevue does not admit that it treated me unlawfully or unfairly in any way, and that BBUSA-Bellevue entered into a Conciliation Agreement with the U.S. Department of Labor, Office of Federal Contract Compliance Programs (“OFCCP”) and agreed to make the payment described above to resolve alleged disparities in hiring and to resolve the compliance review initiated by OFCCP on September 6, 2019 without further legal proceedings. I further agree that the payment of the aforesaid sum by BBUSA-Bellevue to me is not to be construed as an admission of any liability by BBUSA-Bellevue.

III.

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 and seek legal advice. I further declare that I have decided of my own free will to sign this Release.

IV.

I understand that if I do not sign this Release and return it to the contact listed on the enclosed Notice to Affected Class Members by the deadline listed on the Notice, I will not be entitled to receive any payment (less deductions required by law) from BBUSA-Bellevue.

I have signed this document on this ____ day of _____, 2022.

Printed Name

Signature

Exhibit A - List of Class Members

CM #	External Applicant ID	Applicant Name	Original Application Date
1	(b) (6), (b) (7)(C)	(b) (6), (b) (7)(C)	9/27/2018
2			2/1/2018
3			5/24/2018
4			1/29/2018
5			9/17/2017
6			10/1/2017
7			11/14/2018
8			1/9/2018
9			2/27/2019
10			10/7/2017
11			3/13/2018
12			10/3/2017
13			1/3/2018
14			6/14/2018
15			6/19/2018
16			9/1/2018
17			1/27/2018
18			10/15/2018
19			1/4/2018
20			1/7/2018
21			1/9/2018
22			2/27/2018
23			10/16/2017
24			1/5/2018
25			1/8/2018
26			1/8/2018
27			10/5/2017
28			3/27/2018
29			10/4/2018
30			1/19/2018
31			9/4/2018
32			8/27/2018
33			3/24/2018
34			1/24/2018
35			3/30/2018
36			4/27/2018
37			8/22/2018
38			10/3/2018
39			1/17/2018
40			1/7/2018
41			9/2/2018

Exhibit A - List of Class Members

CM #	External Applicant ID	Applicant Name	Original Application Date
42	(b) (6), (b) (7)(C)	(b) (6), (b) (7)(C)	9/5/2017
43			8/23/2018
44			3/3/2018
45			1/19/2018
46			8/29/2018
47			3/22/2018
48			5/15/2018
49			1/15/2018
50			1/11/2018
51			10/23/2018
52			4/23/2018
53			7/17/2018
54			8/21/2018
55			9/12/2018
56			5/17/2018
57			8/29/2017
58			8/25/2018
59			1/2/2018
60			2/15/2018
61			7/15/2018
62			11/7/2017
63			10/2/2018
64			1/5/2018
65			2/20/2018
66			9/11/2018
67			9/14/2017
68			5/11/2018
69			1/27/2018
70			10/14/2017
71			1/9/2018
72			8/26/2017
73			3/2/2018
74			9/25/2018
75			1/23/2018
76			5/21/2018
77			9/22/2018
78			7/11/2018
79			7/12/2018
80			1/12/2018
81			8/22/2018
82			10/11/2018

Exhibit A - List of Class Members

CM #	External Applicant ID	Applicant Name	Original Application Date
83	(b) (6), (b) (7)(C)	(b) (6), (b) (7)(C)	2/1/2018
84			7/18/2018
85			11/9/2018
86			1/8/2018
87			1/8/2018
88			6/27/2018
89			7/23/2018
90			9/14/2018
91			5/10/2018
92			3/5/2018
93			2/21/2018
94			5/17/2018
95			8/20/2018
96			4/10/2018
97			2/28/2018
98			5/29/2018
99			9/24/2018
100			7/17/2018
101			6/1/2018
102			5/8/2018
103			3/5/2019
104			1/6/2018
105			4/1/2018
106			4/23/2018
107			9/4/2018
108			9/15/2018
109			9/17/2018
110			5/19/2018
111			7/13/2018
112			12/14/2017
113			10/9/2018
114			2/19/2018
115			10/7/2018
116			9/3/2018
117			1/8/2018
118			10/19/2018
119			4/29/2018
120			5/16/2018
121			2/16/2018
122			5/10/2018
123			2/19/2018

Exhibit A - List of Class Members

CM #	External Applicant ID	Applicant Name	Original Application Date
124	(b) (6), (b) (7)(C)	(b) (6), (b) (7)(C)	8/6/2018
125			10/3/2018
126			1/6/2018
127			5/19/2018
128			1/9/2018
129			1/12/2018
130			4/16/2018
131			10/3/2018
132			8/24/2018
133			5/7/2018
134			1/6/2018

ATTACHMENT B
Timeline

CA Signed by OFCCP Regional Director: Effective Date			
02/23/2022			Effective Date (ED)
Transfer of Settlement Funds to Claims Administrator			
Estimated Due Date	# of Days from Last Action	Total # of Days from ED	Action Required
Varies			Transfer of funds to Claims Administrator
Varies	7		Contractor will notify OFCCP that the transfer of funds is complete.
Establishing Eligible Applicant List (Final List)			
Estimated Due Date	# of Days	Total # of Days from ED	Action Required
03/25/2022	30	30	Contractor provides initial notice by regular first class mail to Affected Class Members.
Varies			If envelopes from the initial mail notice are returned with forwarding addresses, Contractor will re-mail the Notice Documents within 5 days of receipt of the forwarding address.
Varies			Contractor notifies OFCCP of all letters returned as undeliverable.
05/24/2022	60	90	Parties will meet and confer to assess the results of the initial mail notice and to ensure that the second round of mail notice maximizes the potential response rate.
06/08/2022	15	105	Within 15 days of receipt of this list, OFCCP will attempt to locate the Affected Class Members whose letters were returned as undeliverable or who did not respond.
06/23/2022	30	120	Contractor will send second mailing within 30 days after meeting with OFCCP if a different address is developed.
07/23/2022	120	150	Final deadline for Affected Employees to respond to the notice.
08/07/2022	15	165	Contractor provides list of Eligible Affected Class Members who will participate in the settlement fund as well as the preferential hiring list.
08/22/2022	15	180	OFCCP reviews and approves final Eligible Affected Class Members List and the preferential hiring list.
Disbursement of Settlement Fund			
Estimated Due Date	# of Days	Total # of Days from ED	Action Required
09/21/2022	30	210	Claims administrator will disburse funds and tax forms in accordance with the terms of the Conciliation Agreement to the affected class members on the final eligibility list.
Varies	7		Contractor will notify OFCCP within 7 calendar days of payments that were returned as undeliverable.
Varies	15		OFCCP will provide alternate address to contractor.
Varies	15		Contractor will re-mail checks with new address provided by OFCCP.
12/20/2022	90	300	First Check Deadline: Contractor will notify OFCCP of any checks uncashed after 90 days. Contractor will provide OFCCP with copies of cancelled checks or electronic documentation of all payments to Eligible Affected Class Members, including the amounts paid, the date payment was sent, the date payment was received or the check cashed, and any uncashed or returned checks.

Monitoring and Progress Reports

Reporting Activity		Days	Due Date		
Revise hiring process and provide training to selection		60	04/24/2022		
Provide evidence of updated processes as well as training to relevant management staff.		90	05/24/2022		
Report #	Days covered by report	Covering		Days to provide report	Estimated Report Due Dates
1	365	02/23/2022	02/23/2023	30	03/25/2023
2	364	02/24/2023	02/23/2024	30	03/24/2024