



Issue Date: 14 November 2018

**CASE NOS.: 2015-OFC-00001
2017-OFC-00002**

IN THE MATTER OF

**OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS,
UNITED STATES DEPARTMENT OF LABOR,**

Plaintiff

v.

**JBS USA LUX S.A. and SWIFT BEEF COMPANY
d/b/a JBS and JBS USA, f/k/a JBS USA, LLC,
JBS USA, Inc., and Swift & Co.**

Defendants

CONSENT DECREE AND ORDER

Plaintiff, Office of Federal Contract Compliance Programs, United States Department of Labor (“OFCCP”) and Defendant JBS USA LUX, S.A. and SWIFT BEEF COMPANY d/b/a JBS and JBS USA, f/k/a JBS USA, LLC, JBS USA, Inc., and Swift & Co. (“JBS Hyrum”) and JBS USA LUX S.A. f/k/a JBS USA, LLC, JBS USA, INC., and SWIFT & CO., and SWIFT BEEF COMPANY collectively d/b/a JBS and JBS USA (“JBS Cactus”) have negotiated and executed this Consent Decree and Order which resolves two separate matters. Without admitting to any of the alleged violations set forth in the Administrative Complaints filed in Case No. 2015-OFC-00001 and Case No. 2017-OFC-00002 (collectively referred to as “Administrative Complaints”), JBS Hyrum and JBS Cactus (collectively referred to as “JBS”) agree, pursuant to 41 C.F.R. 60-

30.13, to the entry of this Consent Decree and Order (“Decree”). This Decree constitutes a complete and final settlement of these two matters.

I. JURISDICTION AND PROCEDURAL HISTORY

1. This proceeding is authorized by Sections 208 and 209 of Executive Order 11246, as amended, and its implementing regulations at 41 C.F.R. Part 60-1, *et. seq.* and 41 C.F.R. Part 60-30.

2. Defendant JBS Hyrum owns and operates a beef processing and packing establishment at 410 North 200 West, Hyrum, Utah, 84319 (the “Hyrum establishment”).

3. Defendant JBS Cactus owns and operates a beef processing and packing establishment at U.S. Highway 287, 5950 Trail End Road, Cactus, Texas 79013 (the “Cactus establishment”).

4. JBS Hyrum and JBS Cactus have, and at all relevant times have each had, 50 or more employees and one or more federal contracts with a value in excess of \$50,000.00.

5. JBS Hyrum and JBS Cactus have been federal government contractors within the meaning of Executive Order 11246, as amended, and are now, and at all relevant times have been, subject to the contractual obligations imposed on federal contractors by Executive Order 11246 and its implementing regulations.

6. The issues resolved by this Decree involving the JBS Hyrum establishment were initially identified during OFCCP’s compliance evaluation. OFCCP notified JBS Hyrum of the compliance evaluation of the JBS Hyrum establishment by scheduling letter dated August 3, 2007. On November 30, 2012, OFCCP issued JBS Hyrum an Amended Notice to Show Cause alleging that the hiring practices at JBS Hyrum resulted in discrimination against female

applicants¹ from August 6, 2005 through September 30, 2006 and against white, African-American and Native-American applicants from February 1, 2008 through June 30, 2009, who applied for Job Group 8A General Production/Laborer positions, and that JBS Hyrum failed to conduct adverse impact analyses in accordance with the requirements of 41 C.F.R. 60-3.15A and 60-3.4.

7. OFCCP's Administrative Complaint in Case No. 2015-OFC-00001 alleges that JBS Hyrum discriminated against female applicants for Job Group 8A General Production/Laborer positions at JBS Hyrum from at least August 6, 2005 to at least September 30, 2006 and from at least January 1, 2009 to at least July 31, 2013, and against white, African-American, and Native-American applicants from February 1, 2008 to at least June 30, 2009, who applied for Job Group 8A General Production/Laborer positions at the JBS Hyrum establishment.

8. The issues resolved by this Decree involving the JBS Cactus establishment were initially identified during OFCCP's follow-up compliance evaluation. OFCCP notified JBS's Cactus establishment of the follow-up evaluation by letter dated October 15, 2009. On March 22, 2016, OFCCP issued JBS's Cactus establishment an Amended Notice to Show Cause alleging that the hiring practices at JBS Cactus from September 26, 2007 through June 30, 2010 resulted in discrimination against black, Hispanic, Native American and white applicants applying for Job Group 8A General Production/Laborer positions, and that JBS Cactus failed to conduct adverse impact analyses in accordance with the requirements of 41 C.F.R. 60-3.15A and 60-3.4.

¹ The term "applicant" in this Agreement refers to those persons who have expressed interest in working for JBS in open positions at either JBS Hyrum or JBS Cactus. The use of the term "applicant" in this Agreement is not the same as the Internet Applicant definition set forth in 41 C.F.R. 60-1.3.

9. OFCCP's Administrative Complaint in Case No. 2017-OFC-00002 alleges that JBS Cactus discriminated against black, Hispanic, American Indian/Alaska Native and white applicants for Job Group 8A General Production/Laborer positions at JBS Cactus from April 1, 2009 through December 31, 2016, and discriminated against female applicants on the basis of their gender for Job Group 8A General Production/Laborer positions at the JBS Cactus establishment from January 1, 2010 through December 31, 2016.

10. The parties filed a Joint Motion to Consolidate Case No. 2015-OFC-00001 and Case No. 2017-OFC-00002 and for Entry of this Consent Decree. The above-captioned actions are consolidated for entry of this Consent Decree into one action pursuant to 41 C.F.R. § 60-30.8, 29 C.F.R. § 18.43 and Rule 42(a) of the Federal Rules of Civil Procedure. The instant actions shall be referred to as the "Consolidated Action."

II. GENERAL PROVISIONS

11. This Decree constitutes full and final settlement and resolution of all issues, actions, causes of action and claims arising out of the Administrative Complaints and this Consolidated Action. This Decree shall be binding upon the parties as to all issues, actions, causes of action and claims that were brought or could have been brought within the scope of the Administrative Complaints and this Consolidated Action. This Decree shall constitute the final Administrative Order in these cases and shall have the same force and effect as an order made after a full hearing and final review by the Administrative Review Board.

12. This Consent Decree does not constitute an admission by JBS Hyrum or JBS Cactus of any violation of Executive Order 11246, as amended; Section 503 of the Rehabilitation Act of 1973 ("Section 503"), as amended, the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended ("VEVRAA"), or other laws, implementing regulations, or other

federal contractor obligations enforced by OFCCP, nor has there been an adjudicated finding that JBS Hyrum and/or JBS Cactus violated any laws, implementing regulations, or other federal contractor obligations enforced by OFCCP.

13. The parties agree that this Consent Decree shall not create any rights of action in any third parties, nor shall it be offered in evidence or otherwise used in any manner by any person, firm, corporation, entity, organization, or agency of any government in any attempt to prove that JBS Hyrum and/or JBS Cactus has violated any law, regulation, or order, except for proceedings initiated to enforce the provisions of this Consent Decree.

14. Subject to the performance by JBS Hyrum and JBS Cactus of all duties and obligations contained in this Decree, all alleged deficiencies identified in the Administrative Complaints and Consolidated Action shall be deemed fully resolved.

15. Nothing herein is intended to relieve JBS from compliance with the requirements of Executive Order 11246 and/or 41 C.F.R. Part 60. Compliance with this Decree shall constitute compliance only with respect to those issues which are within the scope of this Decree.

16. The Effective Date of this Decree shall be the date on which this Decree is signed by the Administrative Law Judge.

17. JBS Hyrum and JBS Cactus agree that there will be no retaliation of any kind against any beneficiary of this Decree, or against any person who has provided information or assistance, or who files a complaint or participates in any manner in any proceeding against JBS under Executive Order 11246. JBS Hyrum and JBS Cactus also agree to abide by all applicable laws regarding retaliation against any beneficiary of this Decree, or against any person who either has provided information or assistance to OFCCP (or its agents, servants or employees) during the course of this litigation.

18. Each party agrees to pay its own fees, costs, and other expenses incurred at any stage of these proceedings.

19. All references to “days” in this Agreement are to calendar days. If any deadline for an obligation to be performed falls on a weekend or federal holiday, the deadline shall be extended to the next business day.

III. SPECIFIC PROVISIONS

20. For purposes of this Decree, the affected class members are female, white (other than Hispanic), and American Indian/Alaska Native applicants who applied for Job Group 8A General Production/Laborer positions at JBS’s Hyrum establishment from August 6, 2005 through February 28, 2016 who were not hired (“JBS Hyrum Class Members”) and female, white (other than Hispanic), American Indian/ Alaska Native, and African-American/black applicants who applied for Job Group 8A General Production/Laborer positions at JBS’s Cactus establishment from September 7, 2007 through December 31, 2012 who were not hired (“JBS Cactus Class Members”). The JBS Hyrum Class Members and JBS Cactus Class Members (collectively “Class Members”) are identified on Attachments A1 and A2. (Excluded from service of the instant Consent Decree).

A. Notification

21. JBS shall notify the Class Members of this settlement within forty-five (45) days of the Effective Date of this Decree by mailing to each Class Member via first class mail a Notice Form explaining the settlement (“Notice,” Attachments B1 and B2); a Claim Form (“Claim Form,” Attachments C1 and C2); a Release of Claims Under Executive Order 11246 (“Release,” Attachments D1 and D2); and a self-addressed stamped envelope.

22. Each Class Member listed on Attachments A1 and A2 (or the Class Member's appointed legal representative in the event that he or she is deceased or as otherwise provided under the law) shall be given forty-five (45) days from the postmarked date of the Notice to respond by returning the completed Claim Form and executed Release to JBS's settlement administrator. Any response delivered or postmarked by the 45th day following the date of receipt of the Notice shall be considered to have been submitted within the 45-day period.

23. On a bi-weekly basis, JBS will notify OFCCP of all letters returned as undeliverable. Within one hundred ten (110) days of the Effective Date of this Decree, JBS shall provide OFCCP with a list of Class Members who did not timely and fully respond to the Notices. Within fifteen (15) days of receiving the list from JBS, OFCCP shall conduct a search to attempt to locate the Class Members whose letters were returned as undeliverable or who did not respond. For all Class Members that OFCCP locates, JBS shall send another applicable Notice, Claim Form, Release and self-addressed stamped envelope within fifteen (15) days of receiving the Class Member's address from OFCCP. Each such Class Member shall be given forty-five (45) days from the postmarked date of the second Notice to respond by returning the completed Claim Form and executed Release to JBS's settlement administrator.

24. Within two hundred (200) days of the Effective Date of this Decree, JBS shall provide to OFCCP a list of all JBS Hyrum Class Members and a list of all JBS Cactus Class Members who timely submitted a completed Claim Form and executed Release along with electronic copies of all Claim Forms and Releases that were returned to JBS. Within two hundred and ten (210) days of the Effective Date of this Decree, OFCCP shall approve the list of JBS Hyrum Class Members and the list of JBS Cactus Class Members who have timely

responded to the first or second Notice, or work with JBS to revise the lists so that they can be approved by OFCCP. The approved list of JBS Hyrum Class Members shall constitute the “Final JBS Hyrum List” and the approved list of JBS Cactus Class Members shall constitute the “Final JBS Cactus List.” If a Class Member is not located and/or does not return a completed Claim Form and executed Release within one hundred and eighty (180) days of the Effective Date of this Decree, the Class Member will no longer be entitled to any relief pursuant to this Decree. Persons identified on the JBS Hyrum Final List shall be referred to as “Eligible JBS Hyrum Class Members” and persons identified on the JBS Cactus Final List shall be referred to as “Eligible JBS Cactus Class Members” (collectively “Eligible Class Members”).

25. OFCCP and JBS agree that JBS shall have no further liability for back pay, interest, or any other relief under this Decree to any Class Member identified on Attachments A1 or A2 who cannot be located within the timeframes enumerated above or who does not complete and submit a completed Claim Form and executed Release within one hundred and eighty (180) days of the Effective Date of this Decree.

B. Monetary Settlement

26. In settlement of all claims for back pay and interest to the Eligible Class Members, JBS Hyrum will pay ONE MILLION THREE HUNDRED TWENTY THOUSAND DOLLARS (\$1,320,000.00) in back pay and interest to the Eligible Class Members, of which \$1,016,400.00 is back pay and \$303,600.00 is interest. JBS Cactus will pay TWO MILLION SIX HUNDRED EIGHTY THOUSAND DOLLARS (\$2,680,000.00) in back pay and interest to the Eligible Class Members, of which \$2,063,600.00 is back pay and \$616,400.00 is interest. The total amount of \$4,000,000.00 paid by JBS Hyrum and JBS Cactus (referred to as “the Back Pay Fund”) is a

negotiated amount that represents back pay less mitigation, and takes into account the average tenure of those persons hired into Job Group 8A General Production/Laborer positions at the JBS Hyrum and JBS Cactus establishments during the relevant time period.

27. Within two hundred thirty (230) days of the Effective Date of this Decree, JBS shall distribute the Back Pay Fund, less deductions required by law, equally among all Eligible Class Members, regardless of the facility at which an applicant originally applied or the class list on which the applicant appears in this Decree, by mailing a check to each Eligible Class Member representing his or her pro rata share of the total amount in the Back Pay Fund. Monetary relief is not contingent upon accepting a job offer.

28. JBS shall make all legal deductions required by law (*i.e.*, normal federal, state and/or local taxes and FICA) from the portion representing back pay only, and shall pay to the Internal Revenue Service the employer's share of social security withholding attributable to the back pay portion of the Back Pay Fund. JBS will also mail a Form W-2 (representing the amount of back pay) and, as appropriate, a Form 1099 (representing the amount of interest) to each Eligible Class Member either with the check or consistent with JBS's business practices.

29. Within ten (10) days of JBS's receipt of a returned check from an Eligible Class Member, JBS shall notify OFCCP of this fact via email. OFCCP will attempt to locate the Eligible Class Member and if OFCCP obtains an alternate address, JBS will re-mail the check. Any check that remains uncashed within one hundred twenty (120) days after the initial date mailed to an Eligible Class Member shall be void and shall not be reissued to that Class Member.

30. With respect to any funds in the Back Pay Fund that remain undistributed after one hundred twenty (120) days from the date the checks were mailed, JBS shall make a second distribution to all Eligible Class Members who cashed their first check if the amount of the

uncashed funds would result in a payment of \$50.00 or more to each of the located Eligible Class Members. If the total amount of uncashed funds would result in a payment of less than \$50.00 to each located Eligible Class Member, JBS shall use those uncashed funds to provide training to managers on their obligations under the Executive Order.

31. The parties may modify any time frame set forth in this Decree by mutual agreement. In addition, OFCCP or JBS may petition the Administrative Law Judge to extend any of the above time periods for no more than thirty (30) days in order to permit an Eligible Class Member to receive his or her share of the Back Pay Fund where the interest of justice would be served by such extension and for good cause shown.

C. Hiring of Class Members

32. As entry-level Job Group 8A General Production/Laborer positions become available at the JBS Hyrum establishment, JBS will extend written conditional job offers to qualified Eligible JBS Hyrum Class Members not currently employed by JBS or a JBS affiliate who: (1) timely return a completed Claim Form expressing interest in employment with JBS at the JBS Hyrum establishment as an entry-level Job Group 8A General Production/Laborer worker; (2) timely return a fully-executed Release in accordance with the instructions contained in the Notice; and (3) meet JBS's job requirements.² Written conditional job offers shall be extended to Eligible JBS Hyrum Class Members who meet these requirements until the following number of Eligible JBS Hyrum Class Members have successfully completed the selection process and are hired into Job Group 8A General Production/Laborer positions at the

² The job requirements are: (1) complete an updated employment application; (2) be age 18 or over; (3) pass a drug test and post-offer medical evaluation; (4) be eligible to work in the United States; and (5) agree to accept wages, work hours, overtime, and shift requirements according to JBS Hyrum's or JBS Cactus's needs and assignments.

JBS Hyrum establishment, or until the list of Eligible Class Members expressing an interest in employment at the JBS Hyrum establishment is exhausted, whichever occurs first:

- a. Two Hundred Thirteen (213) female Eligible JBS Hyrum Class Members;
- b. Three Hundred Thirty Two (332) white (other than Hispanic) Eligible JBS Hyrum Class Members; and
- c. Twenty Four (24) American Indian/Alaska Native Eligible JBS Hyrum Class Members.

33. As entry-level Job Group 8A General Production/Laborer positions become available at the JBS Cactus establishment, JBS will extend written conditional job offers to qualified Eligible JBS Cactus Class Members not currently employed by JBS or a JBS affiliate who: (1) timely return a completed Claim Form expressing interest in employment with JBS at the JBS Cactus establishment as an entry-level Job Group 8A General Production/Laborer worker; (2) timely return a fully-executed Release in accordance with the instructions contained in the Notice; and (3) meet JBS's job requirements (set forth in footnote 2 of this Consent Decree). Written conditional job offers shall be extended to Eligible JBS Cactus Class Members who meet these requirements until the following number of Eligible JBS Cactus Class Members have successfully completed the selection process and are hired into Job Group 8A General Production/Laborer positions, or until the list of Eligible JBS Cactus Class Members expressing an interest in employment at the JBS Cactus establishment is exhausted, whichever occurs first:

- a. Five Hundred Seventy Five (575) female Eligible JBS Cactus Class Members;
- b. Three Hundred Four (304) white (other than Hispanic) Eligible JBS Cactus Class Members;

- c. Eight (8) American Indian/Alaska Native Eligible JBS Cactus Class Members;
and
- d. Two Hundred Eight (208) African-American/Black Eligible JBS Cactus Class Members.

34. In satisfying the hiring obligation, if an Eligible Class Member is both a female and is in one of the race/ethnicity groups identified above for the establishment at issue, the hire may be counted against the both the gender and race/ethnicity obligation (*e.g.*, a white female hire can be counted as both a white hire and a female hire if she is on both hire lists). Eligible Class Members shall be considered in the order that JBS received their completed Claim Forms expressing an interest in employment at the JBS Hyrum or JBS Cactus establishments. If Claim Forms are received on the same day, the earliest original application date of the Eligible Class Member will determine the order of employment consideration.

35. JBS Hyrum and JBS Cactus will complete the hiring obligations under this Decree within twenty-four (24) months of the Effective Date of this Decree or when the list of Eligible Class Members expressing an interest is exhausted, whichever occurs first.

36. Eligible Class Members shall be responsible for notifying JBS Hyrum and JBS Cactus of any changes in their addresses or other contact information. Eligible Class Members will be allowed at least one week to accept a written conditional job offer and an additional two weeks to report to work after receiving a written conditional job offer from JBS.

D. Adverse Impact Analyses

37. In accordance with 41 C.F.R. 60-3.4 and 3.15A, JBS's Hyrum and JBS Cactus establishments will maintain and have available for inspection adverse impact analyses, on at least an annual basis, for the purpose of determining whether adverse impact exists against

applicants based on race, sex, or national origin/ethnic group in hiring, promotion, termination, and other personnel activities. These analyses will be done by job for each group constituting more than 2% of the labor force in the relevant labor area or 2% of the applicable workforce. If adverse impact is identified in the total selection process, JBS Hyrum and JBS Cactus will evaluate each individual component of the selection process for adverse impact. If adverse impact is found to exist in any of the individual components of the selection process, JBS Hyrum and JBS Cactus will validate each such component in accordance with the Uniform Guidelines on Employee Selection Procedures or utilize selection procedures which do not result in adverse impact.

IV. REPORTING

38. JBS's Hyrum and Cactus establishments will prepare and submit four (4) bi-annual Progress Reports. The reports shall be submitted to Melissa L. Speer (or her successor), Regional Director, Office of Federal Contract Compliance Programs, Southwest and Rocky Mountain Region, 525 S. Griffin Street, Room 840, Dallas, Texas, 75202 on the following dates: July 31, 2019, January 31, 2020, July 31, 2020, and February 1, 2021. These reports shall contain the following:

- a. Documentation of monetary benefits provided to each Eligible Class Member pursuant to the terms of this Decree, including for each: the name of the person receiving back pay and interest, the check number, the dollar amount of the check, the date of the check and the date the check was cashed. OFCCP may request copies of cancelled checks disbursed by JBS to Eligible Class Members or other equivalent documentation verifying that Eligible Class Members were paid.

- b. The names of all Eligible Class Members hired by each establishment, stating the establishment, the job hired into, starting rate of pay, and hire date.
- c. The names of all Eligible Class Members who refused a written conditional job offer, along with documentation showing the date of the offer and the person's refusal of such offer.
- d. For each Eligible Class Member who received and accepted a written conditional job offer but was not hired, the reasons for the non-selection and all documentation relating to that non-selection.

V. ENHANCED COMPLIANCE AGREEMENT

39. JBS USA LUX, S.A. and SWIFT BEEF COMPANY d/b/a JBS, JBS USA, f/k/a JBS USA, LLC, JBS USA, Inc., and Swift & Co. and JBS USA LUX S.A. f/k/a JBS USA, LLC, JBS USA, INC., and SWIFT & CO., and SWIFT BEEF COMPANY ("JBS"), and Pilgrim's Pride Corporation ("PPC") consents to PPC's joinder as a party to the Consolidated Action and this Decree solely for purposes of this Section V. For purposes of this Section V of the Decree, the parties will be collectively referred to as "JBS/PPC."

40. To proactively facilitate compliance with Executive Order 11246, as amended, JBS/PPC will take the steps described below to enhance its compliance with Executive Order 11246 in the hiring of Job Group 8A General Production/Laborers at its facilities operating in the United States during the term of this Enhanced Compliance Agreement ("facilities"). The current facilities are identified on Attachment E. The parties understand that the facilities subject to this Section V of the Consent Decree may change as JBS/PPC acquires or divests facilities which employ Job Group 8A General Production/Laborers. However, JBS/PPC agrees it will provide the Regional Director of the Southwest and Rocky Mountain Region with written notice

of any such changes within thirty (30) days of the acquisition or sale. When JBS/PPC acquires a facility which employs Job Group 8A General Production/Laborers, the new facility will be covered under the terms of this Section V of the Consent Decree for the duration of the Five-Year Period, defined below. If a JBS/PPC facility governed by this Section V of the Consent Decree is divested to an unrelated third party, such facility will no longer be covered under this Section V of the Decree as of the effective date of the sale.

41. JBS/PPC has retained a Human Resources Consultant (“Consultant”) for the purpose of evaluating the policies and procedures related to the Job Group 8A General Production/Laborer hiring process, and OFCCP has concurred with that selection. The Consultant has relevant educational background and substantial experience in developing and implementing job-related and neutral employee selection processes.

42. The Consultant will evaluate the policies and procedures JBS/PPC currently uses to hire Job Group 8A General Production/Laborers at all of its facilities. The Consultant will conduct on-site visits to the JBS Hyrum and JBS Cactus facilities, and will determine the number and location of other facilities the Consultant will visit in order to ensure a comprehensive and thorough evaluation of JBS/PPC’s hiring policies and procedures for Job Group 8A General Production/Laborers. The sample size will be large enough to provide a high level of confidence that it is reflective of the practices across JBS/PPC as a whole.

43. Within sixty (60) days after the Effective Date of this Enhanced Compliance Agreement, the Consultant will submit to JBS/PPC and OFCCP a proposal that describes the methodology used in the evaluation. The proposal will identify the facilities to be visited and will estimate the time necessary to conduct a comprehensive evaluation of JBS/PPC’s Job Group 8A General Production/Laborer hiring practices and write a report containing the Consultant’s

findings and recommendations. The evaluation and recommendations will cover the following areas:

- a. Procedures to recruit, screen, interview, select, reject, and hire Job Group 8A General Production/Laborers without regard to sex, sexual orientation, gender identity, race/ethnicity, color, national origin, and religion in compliance with Executive Order 11246.
- b. Procedures to limit subjectivity in the hiring process, including identifying objective qualifications and criteria to be used to select and/or eliminate from further consideration persons expressing an interest in employment at each step of the hiring process (*i.e.*, application screen, interview, post-offer screen, etc.).
- c. Procedures to ensure that persons expressing an interest in employment are tracked and decisions are documented at each step in the hiring process.
- d. Procedures to ensure that documents are retained in accordance with 41 C.F.R. 60-1.12(a) and Part 60-3.
- e. Procedures to train all employees involved in the hiring process on the policies and practices related to JBS/PPC's selection of Job Group 8A General Production/Laborers.
- f. Procedures to ensure that adverse impact analyses are conducted in accordance with 41 C.F.R. Part 60-3, including evaluating the individual components and qualifications if statistical disparities exist.

The proposal will also outline provisions for the Consultant's monitoring of the implementation and effectiveness of any of the Consultant's recommendations. Upon receipt of the proposal, JBS/PPC and OFCCP will negotiate in good faith any amendments thereto.

44. Within sixty (60) days after the Consultant concludes the evaluation, the Consultant will provide a written report (“Consultant’s Report”) to JBS/PPC and OFCCP containing findings and recommendations. The Consultant’s Report shall include the following:

- a. A description of the evaluation conducted by the Consultant.
- b. A summary of the Consultant’s findings regarding JBS/PPC’s current policies, procedures and practices related to the hiring of Job Group 8A General Production/Laborers.
- c. The Consultant’s findings and recommendations regarding each of the items set forth in Paragraph 43 above, as well as any other items included in the Consultant’s proposal.
- d. Any additional recommended actions or revisions to the policies, procedures, and practices for Job Group 8A General Production/Laborers to ensure equal opportunity for all persons expressing an interest in employment.
- e. Recommendations for training for all individuals involved in the hiring of Job Group 8A General Production/Laborers.

45. At a mutually-agreeable date after receipt of the Consultant’s Report, but as soon as reasonably possible, JBS/PPC, the Consultant, and OFCCP will meet to review the Consultant’s Report in detail and to discuss and evaluate the Consultant’s recommendations. If JBS/PPC or OFCCP disagrees with any of the recommendations, the parties will discuss the reasons for the disagreement and possible alternatives. After the parties agree to the scope and nature of the recommendations, if any, to be implemented, JBS/PPC will work with the Consultant, with input from OFCCP as requested, to fully implement such recommendations

within one hundred and eighty (180) days. Should implementation of the agreed upon recommendations (or segments thereof) require more than one hundred and eighty (180 days), JBS/PPC and OFCCP will work together in good faith to establish reasonable timelines for implementation.

46. JBS/PPC will, in consultation with the Consultant, develop and conduct a training program to be presented to all individuals involved in the Job Group 8A General Production/Laborers hiring process (*i.e.*, recruiting, screening, interviewing, selection, rejection, and hiring) at all JBS facilities. Individuals attending this training will include, at minimum, all human resources recruiters, managers, and directors; production supervisors; and corporate human resources and compliance personnel. The training program will include instruction on the Consultant's recommendations that JBS/PPC agrees to implement. The training will be mandatory for the personnel identified above, and any employees who are not able to attend the in-person training will be required to watch a videotape of the in-person training session. For a period of five years from the Effective Date of this Enhanced Compliance Agreement ("Five-Year Period"), all employees who have a role in in the hiring of Job Group 8A General Production/Laborers shall be required to attend either an in-person training, which is preferred and should be done periodically, or view the training videotape, within ninety (90) days after assuming such role.

47. JBS/PPC, in consultation with the Consultant and/or additional resources, will monitor the implementation of and results achieved from the revised Job Group 8A General Production/Laborer hiring process, and will provide reports to OFCCP on at least a semi-annual basis for the Five-Year Period. The monitoring reports will indicate whether the revised hiring process has been fully implemented and whether the individuals involved in the revised hiring

process are following the revised policies and procedures. The monitoring reports will also include appropriate recommendations, if any, to alter or change the revised hiring process, its implementation, or training, to ensure a nondiscriminatory hiring process.

48. During the Five-Year Period, JBS/PPC will conduct adverse impact analyses of Job Group 8A General Production/Laborer hiring at each of its facilities consistent with the requirements of 41 C.F.R. 60-3.4 and 3.15 on at least a semi-annual basis. If JBS/PPC finds statistically significant disparities in hiring Job Group 8A General Production/Laborers at any facility, JBS/PPC shall work with the Consultant to investigate the cause of the disparities and take appropriate action, such as providing refresher training or making additional changes to the hiring process. JBS/PPC is not required to provide the results of these specific adverse impact analyses to OFCCP for any of the facilities but may do so at its discretion.

49. During the Five-Year Period, JBS/PPC and OFCCP (and if appropriate, the Consultant) will meet once a year to discuss JBS/PPC's progress in implementing the adopted recommendations, to discuss concerns, and to continue to chart a path toward a mutually-beneficial partnership. The parties will jointly agree on the timing, location, and structure of the meeting to facilitate maximum exchange of ideas. Should the parties deem a meeting unnecessary, it can be waived by mutual agreement. Moreover, in recognition of the time necessary to fully implement the Consultant's recommendations, provide training to hiring managers and human resources staff, monitor the revised hiring process, and make additional changes or refinements to the revised hiring process that may be warranted, OFCCP agrees not to conduct any compliance evaluations of any JBS/PPC facility for the Five-Year Period, other than to investigate Complaints filed by applicants or employees under Executive Order 11246, as amended, Section 503 of the Rehabilitation Act, and VEVRAA.

50. This Enhanced Compliance Agreement between JBS/PPC and OFCCP does not provide JBS/PPC with any grant of immunity or protection from its requirement to comply with Executive Order 11246.

51. This Enhanced Compliance Agreement between JBS/PPC and OFCCP may be modified upon the written consent of the parties, and such consent will not be unreasonably withheld.

52. This Enhanced Compliance Agreement is between OFCCP and JBS/PPC (as collectively defined above) and does not confer any rights or benefits to any other parties, other than any successor to, parent of, or subsidiary of JBS/PPC or OFCCP. In case of a disagreement over the implementation of this Enhanced Compliance Agreement, the parties agree to negotiate the disagreement in good faith prior to enforcement.

VI. IMPLEMENTATION AND ENFORCEMENT

53. This Decree shall constitute the final administrative order in this case, and shall have the same force and effect as an order made after a full hearing and final review by the Administrative Review Board.

54. The entire record upon which this Decree is based shall consist solely of the Administrative Complaints, this Decree, and Attachments A-E.

55. The parties hereby waive any further procedural steps provided in 41 C.F.R. Part 60-30 for a final administrative order.

56. The parties waive any right to challenge or contest the validity of the provisions of this Decree.

57. The Office of Administrative Law Judges shall retain jurisdiction of this proceeding for the sole purpose of enforcing implementation of this Decree in accordance with

its terms. The Office of Administrative Law Judges shall retain jurisdiction of this case for a period of five (5) years following the Effective Date of the Decree, or until thirty (30) days after JBS satisfies its obligations described herein, whichever is later.

58. OFCCP shall be solely responsible for initiating enforcement of compliance with the terms of the Consent Decree.

59. JBS agrees that OFCCP may review compliance with this Consent Decree and will provide OFCCP with all documents reasonably related to such a review. JBS also agrees to allow OFCCP to come on site at either JBS Hyrum or JBS Cactus during normal business hours as is necessary to review compliance with this Decree and upon explaining the reason for doing so. OFCCP agrees to coordinate with JBS any onsite visit to review compliance with this Consent Decree prior to coming on site. If at any time during the term of this Decree OFCCP believes that JBS has violated any portion of this Consent Decree, OFCCP will promptly notify JBS in writing. This notification will include a statement of the facts and circumstances OFCCP relied upon in forming that belief. JBS will have fifteen (15) days in which to respond in writing to the allegations of violation, except in those circumstances in which OFCCP alleges that such a delay would result in irreparable injury.

60. Enforcement proceedings for violation of this Consent Decree may be initiated at any time after the fifteen (15) day period has elapsed (or sooner if irreparable injury is alleged), upon filing with the Office of Administrative Law Judges a motion for an order of enforcement and/or sanctions. The Administrative Law Judge may, if he or she deems it appropriate, schedule an evidentiary hearing on the motion. The issues in a hearing on the motion shall relate solely to the issues of the factual and legal claims made in the motion.

61. Liability for violation of this Decree may subject JBS and its successors, assigns, divisions or parents, affiliates and subsidiaries to the sanctions set forth in Executive Order 11246 and its implementing regulations, and other appropriate relief.

62. If a motion for an order of enforcement or clarification made by OFCCP or JBS is unopposed, the motion may be presented to the Administrative Law Judge without a hearing, and the proposed order may be implemented immediately. If the application or motion of OFCCP or JBS is opposed by the other party, the party in opposition shall file a written response within fifteen (15) days of service of such motion.

The Consent Decree herein set forth is hereby **APPROVED** and shall constitute the final Administrative Order in these cases.

ORDERED this 14th day of November, 2018, at Covington, Louisiana.

LEE J. ROMERO, JR.
Administrative Law Judge