

Conciliation Agreement
Between the United States Department of Labor
Office of Federal Contract Compliance Programs
And
Swift & Staley Mechanical Contractors, Inc.
101 Liberty Drive, Suite 7
Kevil, Kentucky 42053-9363

PART I: General Provisions

1. This Agreement is between the Office of Federal Contract Compliance Programs (hereinafter "OFCCP") and Swift & Staley Mechanical Contractors, Inc. (hereinafter "Swift & Staley").
2. The violation identified in this Agreement was found during a compliance evaluation of the establishment located at 761 Veterans Avenue, Kevil, Kentucky, which began on November 4, 2009, and it was specified in a Notice of Violation issued November 18, 2009. OFCCP alleges that Swift & Staley has violated Executive Order 11246, as amended, and its implementing regulations at 41 CFR Chapter 60, due to the specific violation cited in Part II below.
3. This Agreement does not constitute an admission by Swift & Staley of any violation of Executive Order 11246, as amended and its implementing regulations.
4. The provisions of this Agreement will become part of Swift & Staley's Affirmative Action Program (AAP). Subject to the performance by Swift & Staley of all promises and representations contained herein and in its AAP, all named violations in regard to the compliance of Swift & Staley with all OFCCP programs will be deemed resolved. However, Swift & Staley is advised that the commitments contained in this Agreement do not preclude future determinations of non-compliance based on a finding that the commitments are not sufficient to achieve compliance.
5. Swift & Staley agrees that OFCCP may review compliance with this Agreement. As part of such review, OFCCP may require written reports, inspect the premises, interview witnesses, and examine and copy documents, as may be relevant to the matter under investigation and pertinent to Swift & Staley's compliance. Swift & Staley shall permit access to its premises during normal business hours for these purposes.
6. Nothing herein is intended to relieve Swift & Staley from the obligation to comply with the requirements of Executive Order 11246, as amended, Section 503 of the Rehabilitation Act of 1973, as amended, the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended (38 U.S.C. §4212) and their implementing regulations, or any other equal employment statute or executive order or its implementing regulations.
7. Swift & Staley agrees that there will be no retaliation of any kind against any beneficiary of this Agreement or against any person who has provided information or assistance, or who files a complaint, or who participates in any manner in any proceedings under Executive Order 11246, as amended, Section 503 of the Rehabilitation Act of 1973, as amended and the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended (38 U.S.C. §4212).
8. This Agreement will be deemed to have been accepted by the Government on the date of

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signature by the District Director for OFCCP, unless the Regional Director or the Deputy Assistant Secretary, OFCCP, indicates otherwise within 45 days of the District Director's signature on this Agreement.

9. If, at any time in the future, OFCCP believes that Swift & Staley has violated any portion of this Agreement during the term of this Agreement, Swift & Staley will be promptly notified of that fact in writing. This notification will include a statement of the facts and circumstances relied upon in forming that belief. In addition, the notification will provide Swift & Staley with 15 days from receipt of the notification to respond in writing, except where OFCCP alleges that such a delay would result in irreparable injury.

Enforcement proceedings for violation of this Agreement may be initiated at any time after the 15-day period has elapsed (or sooner, if irreparable injury is alleged) without issuing a Show Cause Notice.

Where OFCCP believes that Swift & Staley has violated this Conciliation Agreement, OFCCP may seek enforcement of this Agreement itself and shall not be required to present proof of the underlying violations resolved by this Agreement.

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

PART II: Specific Provisions

1. **VIOLATION:** Compensation data provided by Swift & Staley for employees revealed that Swift & Staley provided lower compensation to a minority employee than to a similarly situated non-minority employee in the (b) (7)(C) job title. Time in grade and time in company did not explain the compensation disparity. Accordingly, OFCCP finds that Swift & Staley has discriminated against 1 qualified minority employee in the (b) (7)(C) job title paid less because of his race, in violation of 41 CFR 60-1.4(a)(1).
2. **REMEDY:** Although Swift & Staley asserts that this disparity in pay was unintentional, Swift & Staley will effect all the provisions of this Remedy.

Swift & Staley will distribute \$23,712.00 in back pay and \$1,181.89 in interest, totaling \$24,893.89 to (b) (7)(C). The back pay and interest will be paid in a lump sum within 60 days from the date of this Agreement is signed by the District Director, OFCCP. In addition, Swift & Staley will adjust (b) (7)(C) annual salary to \$81,307.20.

Within 90 days from the date this Agreement is signed by the District Director, OFCCP, Swift & Staley will provide OFCCP with evidence of the salary adjustment and monetary disbursement to (b) (7)(C) by a copy of salary change form, pay slip showing legal deductions, and back pay check issued and cancelled, as indicated in Part III of this Agreement.

Swift & Staley will not retaliate, harass, or engage in any form of reprisal or other adverse action against (b) (7)(C) or any other person based on or in relation to the terms or provisions of this Remedy.

Swift & Staley will review its compensation system in 90 days, and at least annually thereafter, and revise it, as needed, to ensure that this violation does not recur.

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FUTURE CONDUCT: Swift & Staley will not repeat the above violations.

PART III: Reporting

Swift & Staley will submit one report, as stated below, to Rafael Ortiz, Assistant District Director—Memphis, United States Department of Labor, Office of Federal Contract Compliance Programs, Clifford Davis/ Odell Horton Federal Building, 167 North Main Street, Suite 101, Memphis, Tennessee 38103; Attention: (b) (7)(C) Compliance Officer. The report shall be due 90 days after the date this Agreement is signed by the District Director, OFCCP. The report shall contain the following information:

1. Copy of personnel form confirming the salary adjustment made to (b) (7)(C) no later than 60 days from the date of this Agreement is signed by the District Director, OFCCP;
2. Evidence of back pay money disbursed to (b) (7)(C), including copy of the cancelled check and pay slip showing the gross amount and legal deductions; and
3. Results of Swift & Staley's 90-day review of its compensation system, including findings, additional equity adjustments, and back pay, if any.

TERMINATION DATE: This Agreement will expire 90 days after OFCCP receives the report required in Part III above or on the date that the District Director gives notice to Swift & Staley that it has satisfied its reporting requirements, whichever occurs earlier, unless OFCCP notifies Swift & Staley in writing prior to the end of the 90-day period that Swift & Staley has not satisfied its reporting requirements pursuant to this Agreement.

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PART IV: Signatures

The person signing this Conciliation Agreement on behalf of Swift & Staley Mechanical Contractors, Inc. personally warrants that she is fully authorized to do so, that Swift & Staley Mechanical Contractors, Inc. has entered into this Conciliation Agreement voluntarily and with full knowledge of the effect thereof, and that execution of this Agreement is fully binding on Swift & Staley Mechanical Contractors, Inc. This Conciliation Agreement is hereby executed by and between the Office of Federal Contract Compliance Programs and Swift & Staley Mechanical Contractors, Inc.

DATE: 12-1-09

(b) (7) (c)

Patricia Holsapple
Chief Executive Officer
Swift & Staley Mechanical Contractors, Inc
101 Liberty Drive, Suite 7
Kevil, Kentucky 42053-9363

DATE: 12/4/09

(b) (7) (e)

Compliance Officer—Southeast Regional Office
Office of Federal Contract Compliance
Programs

DATE: 12/4/09

(b) (7) (c)

Rafael Ortiz
Assistant District Director—Memphis
Office of Federal Contract Compliance
Programs

DATE: 12/8/09

(b) (7) (c)

Ronald Bailey
District Director—Nashville
Office of Federal Contract Compliance
Programs