

the specific violations cited in Part II below.

3. Subject to the performance by Kimmins of all promises and representations contained herein and all named violations in regard to the compliance of Kimmins with all OFCCP programs will be deemed resolved. However, Kimmins is advised that the commitments contained in this Agreement do not preclude future determinations of noncompliance based on a finding that the commitments are not sufficient to achieve compliance.

4. Kimmins 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 Kimmins' compliance. Kimmins shall permit access to its premises during normal business hours for these purposes.

5. Nothing herein is intended to relieve Kimmins from the obligation to comply with the requirements of Executive Order 11246, as amended, and/or Section 503 of the Rehabilitation Act of 1973, as amended, and/or the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended (38

U.S.C. 2012) and implementing regulations, or any other equal employment statute or executive order or its implementing regulations.

6. Kimmins 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/or the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended (38 U.S.C. 2012).

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

8. If, at any time in the future, OFCCP believes that Kimmins has violated any portion of this Agreement during the term of this Agreement, Kimmins 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

Kimmins with 15 days from receipt of the notification to respond in writing, except where OFCCP alleges that such delay would result in irreparable injury.

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

Where OFCCP believes that Kimmins has violated this Conciliation Agreement, evidence regarding the entire scope of Kimmins' alleged noncompliance which gave rise to the Notice of Violations from which this Conciliation Agreement resulted, in addition to evidence regarding the Kimmins' alleged violation of the Conciliation Agreement, may be introduced at enforcement proceedings.

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

**Part II: Specific Provisions**

1. *Violation:* Kimmins failed to demonstrate good faith efforts towards increased female employment, as required by 41 CFR 60-4.3(a), 7 b, c, and i, in the following craft(s):

Craft	Goal (%)		Utilization (%)	
	Minority	Female	Minority	Female
Laborer .....	7.7	6.9	12.0	0.0

*Remedy: Kimmins accomplished the following:*

a. On October 22, 1991, Kimmins established and shall maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when it or its unions have employment opportunities available, and maintain a record of the organizations' responses, as required by 41 CFR 60-4.3(a) 7b.

b. On October 22, 1991, Kimmins developed and shall continuously maintain, a current file of names, addresses, and telephone numbers of each minority and female off-the-street applicant, and minority or female referral from a union, recruitment source or community organization, and what action taken with respect to each individual. If such individual was sent to a union hiring hall for referral and was not referred back to the Contractor, by the union or, if referred, not employed by the Contractor, this shall be documented in the file with the reason therefore, along with whatever

additional actions the Contractor may have taken, as required by 41 CFR 60-4.3(a) 7c.

c. On October 22, 1991, Kimmins agreed to direct its recruitment efforts, both oral and written, to minority, female and community organizations, to schools with minority and female students and to minority and female recruitment and training organizations serving Kimmins recruitment area and employment needs, as required by 41 CFR 60-4.3(a) 7j.

2. *Violation:* Kimmins failed to maintain and submit the Monthly Employment Utilization Reports (CC-257) to OFCCP and to record its employment utilization completely, accurately, and in a timely manner, as required by 41 CFR 60-1.4(b)5.

*Remedy:* On October 22, 1991, Kimmins began and will continue to maintain and submit Monthly Employment Utilization Reports (CC-257) to OFCCP by the 5th of each month for the preceding month, and record its employment utilization completely,

accurately, and in a timely manner, as required by 41 CFR 60-1.4(b)5.

Kimmins agrees to ensure that violations 1 and 2 listed above will not recur.

**Part III: Reporting**

Kimmins agrees to furnish OFCCP, U.S. Department of Labor, 220 Delaware Avenue, 609 Jackson Building, Buffalo, New York 14202 with the following reports:

1. Copies of letters sent to minority and female recruitment sources when it or its unions have opportunities available and copies of the organizations responses.

2. A copy of their applicant log for minorities and females.

3. Copies of letters sent to minority/female recruitment sources and community organizations providing notice of apprentice and training program opportunities.

4. Any other relevant documentation the contractor has to substantiate that each enumerated item in this agreement is being, and continues to be fulfilled.