

Conciliation Agreement
Between the
U.S. Department of Labor Office of Federal Contract Compliance Programs
And
Caterpillar Inc.

I. Preliminary Statement

The Office of Federal Contract Compliance Programs (“OFCCP”) evaluated the Caterpillar Inc. (“Caterpillar”) establishment located at 3000 27th Street, Decatur, IL 62525, beginning on March 30, 2020. OFCCP alleges that Caterpillar failed to comply with Executive Order 11246, as amended (“E.O. 11246” or the “Executive Order”) and the respective implementing regulations at 41 Code of Federal Regulations (“C.F.R.”) Chapter 60.

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 Caterpillar (collectively, the “Parties”) enter into this Conciliation Agreement (“Agreement”) and its attachments, 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 Caterpillar’s fulfillment of all its obligations in this Agreement, OFCCP will not institute administrative or judicial enforcement proceedings under E.O. 11246, based on the alleged violations below. However, OFCCP retains the right to initiate legal proceedings to enforce this Agreement if Caterpillar violates any provision of this Agreement, as set forth in Paragraph 11, below. Nothing in this Agreement precludes OFCCP from initiating enforcement proceedings based on future compliance evaluations or complaint investigations.
2. OFCCP may review Caterpillar’s compliance with this Agreement. As part of this review, OFCCP may require written reports, inspect the premises, interview witnesses, and examine and copy documents. Caterpillar will permit access to its premises during normal business hours for these purposes and will provide OFCCP with all hard copy or electronic reports and documents it requests, including those specified in this Agreement.
3. Nothing in this Agreement relieves Caterpillar of its obligation to fully comply with the requirements of E.O. 11246, Section 503 of the Rehabilitation Act of 1974, as amended (“Section 503”), the Vietnam Era Veteran’s Readjustment Assistance Act of 1974, as amended, (“VEVRAA”), their implementing regulations, or other applicable laws requiring nondiscrimination or equal employment opportunity through affirmative action.
4. Caterpillar and OFCCP agree that any release of claims required by this Agreement will only pertain to claims under E.O. 11246.

5. Caterpillar agrees that it will not retaliate against any potential or actual beneficiary of this Agreement or against any person who files a complaint, who has provided information or assistance, or who participates in any manner in any proceeding in this matter.
6. 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. This Agreement becomes effective on the day it is signed by the Regional Director of the Midwest Region (“Effective Date”).
9. If one or more provisions of this Agreement is deemed unlawful or unenforceable, the remaining provisions will remain in full force and effect.
10. This Agreement will expire sixty (60) days after Caterpillar submits its final progress report required in Section VII, below, unless OFCCP notifies Caterpillar in writing before the expiration date that Caterpillar has failed to fulfill all of its obligations under the Agreement. In this instance, the Agreement is automatically extended until the date that OFCCP determines that Caterpillar has met all of its obligations under the Agreement.
11. If Caterpillar violates this Agreement:
 - a. The procedures at 41 C.F.R. § 60-1.34 will govern:
 - i. OFCCP will send Caterpillar a written notice stating the alleged violations and summarizing any supporting evidence.
 - ii. Caterpillar shall have fifteen (15) days from receipt of the notice to respond, except in those cases in which such a delay would result in irreparable injury to the employment rights of affected employees or applicants.
 - iii. If Caterpillar 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 Caterpillar, 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.

- b. Caterpillar may be subject to the sanctions set forth in Section 209 of the Executive Order, 41 C.F.R. § 60-1.27, and/or other appropriate relief for violating this Agreement.
- 12. This Agreement does not constitute an admission by Caterpillar of any violation of the Executive Order, nor has there been an adjudication on the merits regarding any such violation.
- 13. OFCCP may seek enforcement of this Agreement itself and is not required to present proof of any underlying violations resolved by this Agreement.
- 14. The parties understand and agree that nothing in this Agreement is binding on other governmental departments or agencies other than the OFCCP.
- 15. Each party shall bear its own fees and expenses with respect to this matter.
- 16. This Agreement is limited to the facts of this case. Neither this Agreement, nor any part of the negotiations that occurred in connection with this Agreement, shall constitute admissible evidence with respect to any OFCCP policy, practice or position in any lawsuit, legal proceeding, administrative proceeding, compliance evaluation or audit, except for legal or administrative proceedings concerning the enforcement or interpretation of this specific Agreement.
- 17. All references to “days” in this Agreement, and in the Timeline included as Attachment B, are calendar days. If any deadline for an obligation scheduled to be performed under this Agreement falls on a weekend or a Federal holiday, that deadline will be extended to the next business day.

III. Alleged Discrimination Violation

- 1. OFCCP alleges that Caterpillar discriminated against Black applicants who applied for the Fabrication Specialist/Welder position at the Decatur, Illinois establishment in violation of E.O. 11246 section 202 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 Black applicants for Fabrication Specialists/Welders during the period of March 30, 2018 to March 30, 2020, resulting in a shortfall of thirty-four (34) Black hires.

IV. Financial Remedy

1. Settlement Fund

- a. **Specific Settlement Fund Amounts.** The total Settlement Fund amount includes \$720,000 in back pay and \$80,000 in interest to resolve the alleged violation set forth above. Caterpillar represents that it has the full funds available for the settlement payout. The settlement fund is a negotiated amount that represents restitution for estimated back pay and accrued interest. Caterpillar’s share of taxes on the portion representing back pay, such as Federal Income Contributions Act (FICA) and Federal

Unemployment Tax Act (FUTA) or other federal, state and/or local taxes) is not part of the Settlement Fund. Caterpillar will be responsible for any banking account fees related to the Settlement Fund.

2. Allocation

- a. **Total Amount to be Allocated.** The back pay and interest amounts of the Settlement Fund will be distributed among the eligible applicants as explained in this Section. Individual shares will include appropriate deductions for each individual's share of payroll deductions required by law on the portion representing back pay only, such as federal (FICA), state or local insurance premiums or taxes.
- b. **Affected Applicants Eligible to Receive Payments.** The Settlement Fund will be distributed to all Affected Applicants (identified in Attachment A) who timely respond to the Notice Process as explained below, and whose eligibility is verified (hereinafter, "Eligible Applicant(s)"). These individuals will be listed on the Final List of Eligible Applicants ("Final List"). The process of determining the Final List is explained below under Notice Process. OFCCP will determine the final amount for each Eligible Applicant based on the formula or other terms provided in this Agreement. All Eligible Applicants are entitled to their share of the monetary settlement regardless of whether they are currently interested in employment with Caterpillar.
- c. **Payments to Eligible Applicants.** OFCCP will provide Caterpillar a list of the payment amount for each Eligible Applicant on the Final List by the date set forth on the Timeline. Caterpillar will issue checks or make electronic payments to each Eligible Applicant in the stated amount, along with appropriate tax reporting forms (such as W-2 and Internal Revenue Service (IRS) Form 1099) by the date set forth on the Timeline. OFCCP will receive timely documentation of all payments made and any payments returned undelivered or any checks not cashed, as set forth on the Timeline. Reasonable efforts will be made to ensure that all Eligible Applicants listed on the Final List have an opportunity to claim their portion of the settlement. Where it is determined that an Eligible Applicant did not receive a check or that a check was lost, OFCCP and Caterpillar will work together to provide a replacement check before any funds are redistributed to other Eligible Applicants. Any check that remains uncashed 180 days after the initial date the check was mailed to the Eligible Applicant will be voided. Caterpillar will deposit the uncashed funds with the state agency responsible for unclaimed funds under the last known address for the Eligible Applicant within seventy-five (75) days, in accordance with the applicable laws and regulations.
- d. **Tax Payments, Forms and Reporting.** Caterpillar will pay Caterpillar's share of social security withholdings, and any other tax payments required by law from additional funds separate from the Settlement Fund. Caterpillar shall mail to each Eligible Applicant an IRS Form W-2 for that portion of the payment representing back pay and an IRS Form 1099 for that portion of the payment representing interest.

These IRS forms will be provided to the Eligible Applicants either at the time of payment or in the time required by law. No Eligible Applicant will be required to complete a W-4 or W-9 in order to receive payments under this settlement.¹ Pursuant to the Tax Cuts and Jobs Act (TCJA) OFCCP will report to the IRS via a form 1098-F when an employer (or individual) is required to pay fines, penalties, restitution, remediation, or other costs in excess of \$50,000 as a result of a violation of law or an investigation or inquiry into a violation of law.²

3. Notice Process

- a. **OFCCP and Caterpillar Obligations under the Notice Process.** The Notice Process set forth in this agreement is intended to provide Affected Applicants a meaningful opportunity to understand their rights and obligations and act on them in a timely manner. This includes providing notice in multiple relevant languages to the affected workers upon request and providing technical assistance to Affected Applicants seeking information about their rights and obligations under this Agreement. As specified in the Timeline and as otherwise necessary to fulfill this Agreement, Caterpillar and OFCCP will regularly meet and confer in person, by phone and/or by email on the notice process to determine how best to carry out the Notice provisions of this Agreement, and to decide whether any activity, deadline or document should be modified. OFCCP and Caterpillar agree not to unreasonably withhold consent to reasonable modifications proposed by either party.
- b. **Notice Documents.** Caterpillar will distribute Notice Documents to Affected Applicants identified in Attachment A consistent with the sample Notice Documents contained in Attachments C, D, and E. The Notice Documents may include a Notice, Release of Claims and Identification Verification Forms. The Notice Documents may also include other materials such as standard OFCCP or U.S. Department of Labor materials, instructions or a cover sheet, job applications, or other information that better enables Affected Applicants to understand their rights and obligations and act on them in a timely manner. The Notice Documents will make clear the information about the settlement is being provided by or on behalf of the U.S. Department of Labor. As specified in the Timeline and as otherwise necessary to fulfill this Agreement, the parties will meet and confer on any reasonable modifications of the sample Notice Documents or additions to the materials distributed by Caterpillar, if proposed by either party.

¹ IRS guidance states that an employer can assume a single deduction in the absence of a W-4 form. *See* 26 CFR 31.3402(f)(2)-1(a).

² The IRS issued its implementing regulations in January 2021.

<https://www.federalregister.gov/documents/2021/01/19/2021-00741/denial-of-deduction-for-certain-fines-penalties-and-other-amounts-related-information-reporting>

- c. **Timeline.** Attachment B sets forth the agreed Timeline for Notice and for the parties' other obligations under this Agreement. The parties will meet and confer on any reasonable modifications to the Timeline proposed by either party.
- d. **Search for Affected Applicants.** OFCCP shall provide Caterpillar with complete contact information in its possession or its authority to obtain on the Affected Applicants by the date set forth in the Timeline.
- e. **Distribution of Mail Notice to Affected Applicants.** Caterpillar will provide initial notice by regular first-class mail. Caterpillar will send copies of all of the Notice Documents as defined above, including a postage-paid return envelope, by first class mail to the best available mailing address for each Affected Applicant, by the date set forth in the Timeline. If envelopes from the initial mail notice are returned with forwarding addresses, Caterpillar will re-mail the Notice Documents within five (5) days of receipt of the 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. A second mail notice will be sent to Affected Applicants with valid addresses who fail to respond to the first mail notice unless the parties agree otherwise.

- f. **Distribution of Notice by Other Means.** Caterpillar shall work with the OFCCP to develop a recommended plan for Notice by other means in addition to first class mail, including, as appropriate, use of email and telephone contact, and distribution of information on websites. These other means will be designed to maximize the ability of Affected Applicants to understand their rights and obligations under this Agreement and act upon them. OFCCP will also conduct independent efforts to communicate with Affected Applicants about this Agreement through official U.S. Department of Labor channels and in partnership with community-based organizations.
- g. **Notice Deadline.** The final deadline for any Affected Applicant to respond to the notice is set forth in the Timeline. The parties will prominently display this deadline on all materials they distribute in paper or online form regarding this Agreement and explain that failure to respond by this deadline will result in a forfeiture of any relief provided by this Agreement.
- h. **Technical Assistance.** The parties will timely respond to any inquiries from Affected Applicants using information consistent with this Agreement and the Notice Documents and will document all inquiries and the result. OFCCP will provide contact information for individuals to contact OFCCP regarding this Agreement. The parties will prominently display this contact information on all materials they distribute in paper or online form regarding this Agreement. Caterpillar will provide OFCCP contact information to any Affected Applicant with questions or concerns.

- i. **Exchange of Information Regarding Affected Applicants.** Caterpillar and OFCCP will timely exchange information regarding Affected Applicants, including updated contact information and the results of any technical assistance provided.
- j. **Final List of Eligible Applicants.** The Final List will include all Affected Applicants who timely respond to the Notice and submit the Information Verification Form and Release of Claims by the deadline set forth in the Timeline and whose eligibility is verified by OFCCP. 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 Applicants 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. Caterpillar will provide to OFCCP any information necessary to determine the Final List.
- k. **Documentation of Payments.** By the deadline set forth in the Timeline, Caterpillar will provide OFCCP with electronic documentation of all payments to Eligible Applicants, including the amounts paid, the date payment was sent, the date payment was received, or the check cashed, and any uncashed or returned checks. In the event of any uncashed funds after the distribution, Caterpillar will submit documentation showing that uncashed funds have been deposited with the respective unclaimed state agency responsible for unclaimed funds.
- l. **Caterpillar's Expenses.** Caterpillar will pay all expenses associated with carrying out its duties pursuant to this Section, from funds separate and apart from the amount designated in this Agreement for the Settlement.

V. **Additional Individual Relief**

1. **Job Opportunities**

- a. **Description of Job Opportunities.** As vacancies occur in the Fabrication Specialist/Welder position, Caterpillar shall make bona fide job offers to Eligible Applicants who have expressed interest in employment and are not currently employed in the job at issue by Caterpillar, until thirty-four (34) Black Eligible Applicants are hired or the list of Eligible Applicants is exhausted, whichever comes first. Until that time, these Eligible Applicants will have priority over all other external candidates for hire into Fabrication Specialist/Welder positions. As vacancies occur in the Fabrication Specialist/Welder position, Caterpillar shall contact the Eligible Applicants with a written job offer delivered via personal email address and home mailing address in the order in which they submitted their Identification Verification Form and Release of Claims Form, or, if the Forms were received on the same day, in the order of their original application date.

The report-to-work date for Eligible Applicants hired pursuant to this Agreement shall be no later than twenty-one (21) days after the date the written job offer is accepted. The Eligible Applicant must report to work on the day designated or provide Caterpillar notice of good cause for their absence on or before that date. If good cause is provided, the Eligible Applicant must report to work within five (5) days of the original designated start date. Otherwise, Caterpillar may withdraw the job offer and shall be under no obligation to hire the Eligible Applicant under this Agreement but remains obligated to hire until the shortfalls noted in Part III are filled or the list of Eligible Applicants is exhausted, whichever comes first.

Caterpillar agrees to pay Eligible Applicants hired under this provision at least the current entry level wage based on applicants' qualifications for Fabrication Specialist/Welder positions and provide all regular and on-the-job training currently provided to employees in that position.

- b. **Reporting.** Caterpillar will document the job offers and hires, including job offers made, reasons for rejection, and Eligible Applicants hired and terminated during the monitoring period as set forth in Section VII, OFCCP Monitoring Period, below.

VI. Modifications to Employment Practices and Other Non-Monetary Relief

Caterpillar shall ensure all applicants are afforded equal employment opportunities.

1. Ensure Non-Discriminatory Selection Procedures: Caterpillar shall comply with all OFCCP regulations concerning selection procedures, including 41 C.F.R. § 60-3. Caterpillar 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 race, sex, or ethnic group unless Caterpillar properly validates the procedure pursuant to these regulations and can show the selection procedure is job-related and consistent with business necessity.
2. Recordkeeping and Retention: Caterpillar shall implement procedures to ensure that applicants are tracked and selection decisions are documented at each step in the hiring process. Caterpillar 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, Caterpillar will ensure that records are maintained on Caterpillar'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.
3. Training: Within ninety (90) days of the Effective Date of this Agreement, Caterpillar 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 Fabrication Specialist/Welder positions at the Decatur facility. The training shall focus on equal employment opportunity in hiring. The training will include (but is not limited to)

instructions in: the implementation of Caterpillar'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. Caterpillar shall maintain a list of managers and employees who attended the training.

4. **Monitoring:** Caterpillar shall monitor selection rates at each step of its selection process for Fabrication Specialist/Welder positions at the Decatur facility. 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, sex, or ethnic group, Caterpillar 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. Caterpillar shall maintain and make available to OFCCP records concerning the impact of the selection process for Fabrication Specialist/Welder positions at the Decatur, Illinois facility. These records must include the number of persons applied and hired by race, sex, and ethnic group 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.

VII. OFCCP Monitoring Period

1. **Recordkeeping.** Caterpillar agrees to retain all records relevant to the violations cited in Section III above and the reports submitted in compliance with Paragraph 2, below. These records include underlying data and information such as Human Resources Information System (HRIS) and payroll data, job applications and personnel records, and any other records or data used to generate the required reports. Caterpillar will retain the records until this Agreement expires or for the time period consistent with regulatory requirements, whichever is later.
2. **Contractor Reports.**
 - a. **Schedule and Instructions.** Caterpillar agrees to furnish OFCCP with the following reports during the Monitoring Period 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.

Caterpillar will submit reports electronically to OFCCP Compliance Officer (b) (6), (b) (7)(C) via email at (b) (6), (b) (7)(C)@dol.gov. Caterpillar 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 Caterpillar

provides in accordance with this agreement are customarily kept private or closely-held, and Caterpillar believes should remain confidential under Exemption 4 of the Freedom of Information Act (“FOIA”) in the event of a FOIA request, Caterpillar 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 required by law.

- b. **Reports on Job Offers.** In each Progress Report, Caterpillar will report on all job offers and hires made to date pursuant to the Agreement until all of the job opportunities for the reviewed establishment are filled or the list of Eligible Applicants expressing interest in the positions is exhausted. This includes:
- i. Documentation of all job offers made to Eligible Applicants, including the names of individuals offered jobs, the date of their application, the date of the offer, the date the offer was accepted or rejected, and the starting pay.
 - ii. Documentation of Eligible Applicants 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 Caterpillar 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 Applicants who were hired and terminated during the life of this Agreement and the reason for the termination.
 - iv. Documentation of the number of available positions remaining to be filled and the number of Eligible Applicants still on the list.
 - v. Documentation of the start dates for Eligible Applicants who were hired.
 - vi. If Caterpillar has not filled all of the positions specified in this Agreement by the Progress Report date, documentation of the reason this action is not complete and the good faith efforts being taken and planned for the next reporting period to complete it.
 - vii. If Caterpillar fails to meet its hiring obligations under this Agreement by the close of the Monitoring Period, OFCCP reserves its rights under Section II, Paragraphs 10 and 11 of this Agreement to extend the monitoring period or to pursue enforcement remedies.
- c. **Reports on Modifications to Personnel Practices.** In each Progress Report, Caterpillar will report on any 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.

- d. **Reports on Hiring Activity and Analysis.** In each Progress Report, Caterpillar will report all employment activity in the Fabrication Specialist/Welder position. This includes:
- i. The total number of applicants and hires into the Fabrication Specialist/Welder position, and the breakdown by race and sex of all applicants and hires for Fabrication Specialist/Welder positions during the reporting period, including all temporary, part-time, full-time, and seasonal workers;
 - ii. For the Fabrication Specialist/Welder position, the results of Caterpillar's analysis as to whether its total selection process has an adverse impact, as defined in 41 C.F.R. § 60-3.4D, against Black applicants as set forth in 41 C.F.R. § 60-3.4B; (For purposes of the adverse impact analysis, Caterpillar must not include hires made pursuant to this Agreement in that analysis);
 - iii. For each case in which the total selection process has an adverse impact, as defined in 41 C.F.R § 60-3.4D, the results of Caterpillar's evaluation of the individual components of the selection process for adverse impact;
 - iv. The actions taken by Caterpillar upon determining that any component of the selection process has an adverse impact based on race and/or sex as set forth in Part III above; and
 - v. The in-depth analyses performed by Caterpillar pursuant to item ii and iii above.
3. **Close of Monitoring Period and Termination of Agreement.** This Agreement shall remain in effect until the monitoring period is completed. The monitoring period will close once OFCCP accepts Caterpillar's final progress report as set forth in Part II, Paragraph 10 above. If OFCCP fails to notify Caterpillar in writing within sixty (60) days of the date of the final progress report that Caterpillar 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 Caterpillar within the allotted time that it has not fulfilled all of its obligations, this Agreement is automatically extended until the date that OFCCP determines Caterpillar has met all of its obligations under the Agreement.

VIII. SIGNATURES

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

This Agreement is hereby executed by and between the Office of Federal Contract Compliance Programs and Caterpillar, Inc.

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

ROB HOENES
Senior Vice President, Resource Industries Operations and Products
Caterpillar Inc.

DATE: 5/14/2024

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

CARMEN NAVARRO
Regional Director
OFCCP, Midwest Region

DATE: 5/20/24

Attachments:

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

ATTACHMENT - A

AFFECTED APPLICANTS

	Last, First, Middle Name	Race
1	(b) (6), (b) (7)(C)	Black
2		Black
3		Black
4		Black
5		Black
6		Black
7		Black
8		Black
9		Black
10		Black
11		Black
12		Black
13		Black
14		Black
15		Black
16		Black
17		Black
18		Black
19		Black
20		Black
21		Black
22		Black
23		Black
24		Black
25		Black
26		Black
27		Black
28		Black
29		Black
30		Black
31		Black
32		Black
33		Black
34		Black
35		Black

36	(b) (6), (b) (7)(C)	Black
37		Black
38		Black
39		Black
40		Black
41		Black
42		Black
43		Black
44		Black
45		Black
46		Black
47		Black
48		Black
49		Black
50		Black
51		Black
52		Black
53		Black
54		Black
55		Black
56		Black
57		Black
58		Black
59		Black
60		Black

ATTACHMENT B – TIMELINE

CA Signed by OFCCP Regional Director: Effective Date			
5/20/2024			Effective Date (ED)
Establishing Eligible Applicant List (Final List)			
Estimated Due Date	# of Days from Last Action	Total # of Days from ED	Action Required
6/19/2024	30	30	Contractor provides initial notice by regular first-class mail to Affected Applicants.
TBD	5		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.
biweekly			Contractor provides OFCCP a bi-weekly updated list ("list") indicating the status of each Affected Applicant's mailing, including which Affected Applicants have returned their forms, which were returned undeliverable, and the date of remailing, if applicable.
8/18/2024	60	90	Contractor will provide an updated list indicating the status of each Affected Applicant's mailing and the 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.
9/02/2024	15	105	Within 15 days of receipt of the list provided for the meet and confer conference, OFCCP will attempt to locate the Affected Applicants whose letters were returned as undeliverable or who did not respond.
9/17/2024	15	120	Contractor will send second mailing within 15 days after meeting with OFCCP.
11/16/2024	60	180	Final deadline for Affected Applicants to respond to the notice.
12/01/2024	15	195	Contractor provides list of Eligible Class Members who will participate in the settlement fund as well as the priority employment list.
12/16/2024	15	210	OFCCP reviews and approves final Eligible Class Member List and the priority employment list.

Disbursement of Settlement Fund			
Estimated Due Date	# of Days from Last Action	Total # of Days from ED	Action Required
1/15/2025	30	240	Contractor disburses the settlement fund based on amounts provided by OFCCP with the final Eligible Class Member 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.
2/14/2025	30	270	First Check 30 Day status update: Contractor will notify OFCCP of any checks uncashed after 30 days. Contractor will provide OFCCP with electronic documentation of all payments to Eligible 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.
4/15/2025	60	330	First Check 90 Day Status update: Contractor will notify OFCCP of any checks uncashed after 90 days. Contractor will provide OFCCP with electronic documentation of all payments to Eligible 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.
7/14/2025	90	420	Eligible Class Members have 180 days to cash their checks, after which the checks become void.
9/27/2025	75	495	Contractor will deposit unclaimed monies with the state agency responsible for unclaimed funds under the last known address for the Eligible Applicant within 75 calendar days after initial checks are void.

Monitoring and Progress Reports					
Reporting Activity				Days	Due Date
Provide training to selection officials				90	8/18/2024
Evidence of Training to managers and supervisors of EEO policies and procedures.				120	9/17/2024
Report #	Days covered by report	Covering		Days to provide report	Estimated Report Due Dates
1	365	5/20/2024	5/20/2025	30	6/19/2025
2	365	5/21/2025	5/21/2026	30	6/20/2026

ATTACHMENT C

NOTICE TO AFFECTED CLASS

Dear [name]:

Caterpillar Inc. and the U.S. 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 ("E.O. 11246"), as amended, that OFCCP found during a compliance review of Caterpillar Inc.'s Decatur facility. OFCCP's analysis of Caterpillar Inc.'s hiring process and selection procedures showed disparities in the hiring rate of Black applicants for the Fabrication Specialist/Welder position during the period of March 30, 2018 through March 30, 2020 ("Review Period"). Caterpillar Inc. has not admitted to any violation of E.O. 11246 and there has not been any adjudicated finding that Caterpillar Inc. violated any laws. OFCCP and Caterpillar Inc. entered into the Agreement to resolve the matter without resorting to further legal proceedings.

You have been identified as an individual who applied for a Fabrication Specialist/Welder position during that time period but was not hired. Additional information on the agreement and a link to the Conciliation Agreement can be found on OFCCP's website at www.dol.gov/agencies/ofccp/classmembers.

As part of this Agreement, you are eligible to receive a distribution of at least \$13,000 less lawful payroll deductions. Under the terms of this Agreement it may take up to eight months from the date of this letter before you receive your distribution. In order to be eligible for a payment, you must complete, sign, and return the enclosed Information Verification and Employment Interest Form and Release of Claims Form. The forms 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 [insert date by which class members must respond].**

[Name]
[Position]
Caterpillar
[Address]

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

In addition to the monetary distribution, Caterpillar Inc. will be making job offers for Fabrication Specialist/Welder positions to a limited number of individuals receiving this notification. It is not certain that you will receive a job offer. If you are still interested in employment with Caterpillar Inc., please check the appropriate box on the enclosed Information Verification and Employment Interest Form. Those receiving this notice will be considered for Fabrication Specialist/Welder positions in the order that Caterpillar Inc. receives the Information Verification and Employment Interest Form expressing an interest in employment.

If you have any questions you may call [name] at Caterpillar Inc. at [phone number], or OFCCP Compliance Officer (b) (6), (b) (7)(C) at (b) (6), (b) (7)(C) or (b) (6), (b) (7)(C)@dol.gov. Your call or email will be returned as soon as possible.

IF YOU FAIL TO COMPLETE AND RETURN THE ENCLOSED DOCUMENTS TO CATERPILLAR INC. BY [insert date by which class members must respond], YOU WILL NOT BE ELIGIBLE TO RECEIVE A PAYMENT OR TO BE CONSIDERED FOR A JOB OFFER.

Sincerely,

[Name]

Enclosures

Information Verification and 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 Caterpillar Inc. and the U.S. 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 Caterpillar Inc. at the address below if your address, email address or phone number changes within the next twelve months.

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

Please indicate below whether you are currently interested in employment in a Fabrication Specialist/Welder position with Caterpillar Inc. 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 Caterpillar Inc. as a Fabrication Specialist/Welder.

No, I am not currently interested in employment with Caterpillar Inc. as a Fabrication Specialist/Welder.

IF YOU FAIL TO COMPLETE AND RETURN THE ENCLOSED DOCUMENTS TO THE ADDRESS BELOW BY *[date class members must respond]*, YOU WILL NOT BE ELIGIBLE TO RECEIVE A PAYMENT OR TO BE CONSIDERED FOR A JOB OFFER.

[Name]

[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 Caterpillar Inc. paying you money, you agree that you will not file any lawsuit against Caterpillar Inc. for allegedly violating Executive Order 11246, as amended, in connection with its selection procedures for applicants for the Fabrication Specialist/Welder positions. It also says that Caterpillar Inc. 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 \$13,000 (less deductions required by law) by Caterpillar Inc. to me, which I agree is acceptable, I, (print name) _____, agree to the following:

I.

I hereby waive, release and forever discharge Caterpillar Inc., its predecessors, successors, related entities, parents, subsidiaries, affiliates and organizations, and its and their shareholders, directors, officers, employees, agents, successors, and assigns, 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 a Fabrication Specialist/Welder on the basis of my race and/or sex at any time prior to the date of my signature on 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 Caterpillar Inc. through the Effective Date of this Release.

II.

I understand that Caterpillar Inc. denies that it treated me unlawfully or unfairly in any way and that Caterpillar Inc. 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 matter without further legal proceedings in the compliance review initiated by OFCCP on March 30, 2020. I further agree that the payment of the aforesaid sum by Caterpillar Inc. to me is not to be construed as an admission of any liability by Caterpillar Inc.

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 Caterpillar Inc.

IN WITNESS WHEREOF, I have signed this document on this ____ day of _____, 20__.

Printed Name

Signature
