

FUNCTIONAL AFFIRMATIVE ACTION PROGRAM AGREEMENT  
BETWEEN  
COMPANY  
AND  
THE OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS  
U.S. DEPARTMENT OF LABOR

This Agreement is entered into between COMPANY and the Office of Federal Contract Compliance Programs of the United States Department of Labor ("OFCCP"). COMPANY is subject to Executive Order 11246, as amended, and its implementing regulations.

I. PURPOSE

COMPANY and OFCCP desire a more effective and efficient means of ensuring equal employment opportunity and successful affirmative action programs. The parties agree that COMPANY's affirmative action programs will be more meaningful and effective if they are organized in a manner that is consistent with the way COMPANY is structured and operates its business. Therefore, in accordance with the regulations at 41 CFR 60-2.1, this Agreement will allow COMPANY to develop and implement affirmative action programs that are based on functional or business units, referred to as "functional AAPs." COMPANY will develop, implement, and maintain an affirmative action program for its corporate headquarters and for each of the functional or business units that are identified and described in the Addendum to this Agreement. The use of functional AAPs will ensure that responsibility and accountability for affirmative action planning and goal accomplishment are assigned to the appropriate officials in COMPANY's organization, and will result in improved efficiencies for both COMPANY and OFCCP.

II. TERMS OF AGREEMENT

A. LEGAL OBLIGATIONS

Nothing contained in this Agreement is intended to relieve COMPANY of its obligations to comply with the terms of Executive Order 11246 and its implementing regulations, or limit OFCCP's duty to enforce the Executive Order. This Agreement affects only the organization and structure of the affirmative action programs that COMPANY is required to develop and maintain, pursuant to the Executive Order implementing regulations found in 41 CFR Part 60-2.

## B. EFFECTIVE DATE, TERMINATION, AND RENEWAL

This Agreement will become effective upon signature by the Deputy Assistant Secretary for Federal Contract Compliance (“DAS”) and will remain in effect for five (5) years after the date of such approval. During the term of this Agreement, either party may terminate this Agreement upon 90-calendar days written notice to the other party. The notice will provide a brief explanation of the reason(s) for the termination, and the effective date of the termination.

COMPANY may request that this Agreement be renewed for another five-year term. The renewal request must be submitted to the DAS at least 120 days prior to the expiration of this Agreement. COMPANY’s renewal request will be deemed accepted by OFCCP unless rejected in writing within 60 calendar days of receipt.

## C. MODIFICATION AND AMENDMENTS

During the term of this Agreement, either party may propose modifications or amendments to this Agreement. Such proposals will be deemed accepted by the other party unless rejected in writing within 60 calendar days of receipt. The written statement of rejection shall contain detailed reasons for the rejection.

In the event of a change or amendment to the laws or regulations under which this Agreement is issued, the parties agree to abide by such changes immediately upon their effective date. If such changes materially alter the terms of this Agreement, the parties shall have 60 calendar days from the effective date of the change to revise this Agreement accordingly. If the parties are unable to agree on revisions, this Agreement will be deemed terminated.

If, during the term of this Agreement, COMPANY so significantly changes its organizational structure so as to alter the functions upon which this Agreement is based (e.g., a merger, acquisition, downsizing or reorganization that would result either in the elimination of certain functions that are identified and described in Addendum A to this Agreement or the addition of new functions), COMPANY will immediately notify the DAS in writing. COMPANY should also include sufficient information to determine whether the Agreement should be modified or amended based upon the changed circumstances. The DAS will determine whether it is necessary to amend or modify this Agreement. Failure to provide notification of significant changed circumstances in COMPANY’s organizational structure may result in the termination of this Agreement.

## D. SEPARABILITY OF PROVISIONS

Any provision of this Agreement found invalid will not affect the validity or enforceability of the remaining portions of the Agreement.

## E. NOTICES

The addresses of the parties for purposes of notices required or permitted under this Agreement are as follows:

For the Company  
For OFCCP

## F. CONFIDENTIALITY AND FREEDOM OF INFORMATION ACT

OFCCP agrees that it will treat the information submitted pursuant to this Agreement as sensitive and confidential to the maximum extent possible under the Freedom of Information Act (FOIA), with the same disclosure safeguards that are applied to affirmative action program data that are of a sensitive or confidential nature.

## III. TERMS APPLICABLE TO COMPANY'S AFFIRMATIVE ACTION PROGRAMS

### A. DEVELOPMENT OF FUNCTIONAL AAPS

Every employee in a functional or business unit identified and described in Addendum A will be included in a functional AAP. Each functional AAP will include the components that are prescribed in the regulations in 41 CFR 60-2.11 through 60-2.17. COMPANY will update its functional AAPs on an annual basis. For each of the functional or business units identified in the Addendum to this Agreement, COMPANY also agrees to provide OFCCP an annual update by August 1 of the name and address of the managing official (or contact person), if different from Addendum A. The first annual update will be due August 1, 2003.

This Agreement does not constitute acceptance or approval of COMPANY's AAPs by OFCCP nor does it approve the methodology or format used by the company. COMPANY's compliance with Executive Order 11246 and the regulatory requirements for affirmative action programs will be determined through the compliance evaluation process.

### B. COMPLIANCE EVALUATION PROCEDURES

This Agreement does not limit access, method of scheduling, nor the manner or means by which OFCCP will conduct compliance evaluations. COMPANY's functional units will be selected for compliance evaluation in accordance with the policies and procedures established for contractors with functional AAPs

During a compliance evaluation of a functional or business unit, COMPANY agrees that any personnel and employment records that OFCCP requests for on-site inspection and review will be made available at the location(s) designated by OFCCP. In addition to

notifying the managing official, OFCCP agrees to send a copy of each compliance evaluation scheduling letter to the corporate contact person identified in the Addendum.

The establishments identified in Addendum B to this Agreement will be selected and scheduled for compliance evaluation in accordance with the policies and procedures for supply and service contractors with establishment-based AAPs.

COMPANY's corporate headquarters will be selected and scheduled for compliance evaluation in accordance with the procedures for Corporate Management Compliance Evaluations.

Therefore, the parties hereto have caused this Agreement to be executed by their respective representatives as set out below.

COMPANY

OFCCP

ADDENDUM A to  
COMPANY  
FUNCTIONAL AFFIRMATIVE ACTION PROGRAM AGREEMENT

This Addendum is incorporated by reference into the Functional Affirmative Action Program Agreement entered into between COMPANY and the Office of Federal Contract Compliance Programs of the United States Department of Labor (“OFCCP”).

COMPANY will develop and implement affirmative action programs for each of the functional or business units identified and described below:

LIST OF FUNCTIONAL UNITS

The parties hereto have caused this Addendum to COMPANY’S Functional Affirmative Action Program Agreement to be executed by their respective representatives as set out below.

COMPANY

OFCCP

ADDENDUM B to  
COMPANY  
FUNCTIONAL AFFIRMATIVE ACTION PROGRAM  
AGREEMENT

This Addendum is incorporated by reference into the Functional Affirmative Action Program Agreement entered into between COMPANY and the Office of Federal Contract Compliance Programs of the United States Department of Labor (“OFCCP”).

COMPANY will continue to develop and implement affirmative action programs for each of the establishments identified and described below:

LIST OF ESTABLISHMENTS

The parties hereto have caused this Addendum to COMPANY’S Functional Affirmative Action Program Agreement to be executed by their respective representatives as set out below.

COMPANY

OFCCP