



Date: October 11, 2000

Case No: 1996-OFC-0002

In the Matter of:

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

v.

VOLVO GM HEAVY TRUCKS NORTH AMERICA,
Defendant.

Before: FLETCHER E. CAMPBELL, JR.
Administrative Law Judge

ORDER APPROVING CONSENT DECREE

Pursuant to 41 C.F.R. 60-30.13(c)(1), the parties to this action, plaintiff, United States Department of Labor, Office of Federal Contract Compliance Programs (“OFCCP”) and defendant, Volvo GM Heavy Truck Company, now known as Volvo Trucks North America (“Volvo”), have submitted a consent decree for review and issuance of a final administrative order. The Office of Administrative Law Judges has jurisdiction in this matter pursuant to Sections 208 and 209 of Executive Order 11246, as amended (30 F.R. 12319 and 32 F.R. 14303) (“Executive Order 11246”), and the regulations issued thereunder at 41 C.F.R. Chapter 60. The entire record on which this order is based consists solely of the administrative complaints and the agreement contained in the consent decree, with appendices.

Review of the consent decree confirms that it complies with 41 C.F.R. §§ 60-30.13 and that it fairly and adequately resolves all pending issues for these matters. Accordingly, the consent decree is hereby APPROVED AND ADOPTED in its entirety. This decision constitutes the final administrative order approving the consent decree. Pursuant to paragraph 29 of the decree, however, the Office of Administrative Law Judges retains jurisdiction for the sole purpose of enforcing implementation of the consent decree, until dismissal of the matter. Paragraph 27 provides that the parties will jointly move for dismissal of the matter ninety (90) days after the terms of the decree have been satisfied.

Pursuant to paragraph 13 of the agreement, the effective date of the consent decree is the date of this order.

FLETCHER E. CAMPBELL, JR.
Administrative Law Judge

Newport News, Virginia
FEC/cp

UNITED STATES DEPARTMENT OF LABOR
OFFICE OF ADMINISTRATIVE LAW JUDGES

OFFICE OF FEDERAL CONTRACT COMPLIANCE)	
PROGRAMS, UNITED STATES DEPARTMENT)	
OF LABOR,)	
)	
Plaintiff,)	
)	
v.)	Case No. 96-OFC-2
)	
)	
VOLVO GM HEAVY TRUCK)	
CORPORATION,)	
)	
Defendant.)	

CONSENT DECREE

Plaintiff, United States Department of Labor, Office of Federal Contract Compliance Programs ("OFCCP") instituted this action by filing an administrative complaint against Volvo GM Heavy Truck Corporation, now known as Volvo Trucks North America ("Volvo"). The complaint alleged that Volvo's New River Valley plant in Dublin, Virginia, violated the obligations imposed upon Federal contractors and subcontractors by Executive Order 11246, as amended (30 F.R. 12319 and 32 F.R. 14303) ("Executive Order 11246"), and its implementing regulations. Without admitting the allegations set forth in the administrative complaint, Volvo agrees, pursuant to 41 CFR 60-30.13, to the entry of this Consent Decree.

Both OFCCP and Volvo desire to resolve this action and all issues raised herein without the further time and expense of contested litigation. They therefore have entered into a complete and satisfactory compromise and

settlement of the claims raised in the administrative complaint filed herein. The parties hereby waive any further procedural steps provided in 41 CFR Part 6030 for a final administrative order, and further waive any right to challenge or contest the validity of the provisions of this Consent Decree. The record upon which this Consent Decree is based shall consist solely of the administrative complaint and this Consent Decree and the attachments hereto.

I

JURISDICTION AND PROCEDURAL HISTORY

1. This proceeding is authorized by Sections 208 and 209 of Executive Order 11246 and the regulations issued pursuant thereto at 41 CFR 60-1.26 and 41 CFR Part 60-30.
2. Defendant Volvo maintains its corporate headquarters in Greensboro, North Carolina and is engaged in the manufacture of heavy trucks.
3. At all times pertinent hereto, the New River Valley plant in Dublin, VA has been owned and operated by Volvo.
4. At all times pertinent hereto, Volvo has had 50 or more employees, and has had one or more Government contracts or subcontracts with a value in excess of \$50,000.
5. At all times pertinent hereto, Volvo has been a Government contractor or subcontractor within the meaning of Executive Order 11246, and is now, and at all pertinent times has been, subject to the contractual obligations imposed on Government contractors and subcontractors by Executive Order 11246, and the implementing regulations issued thereunder.
6. Volvo is, and at all pertinent times has been, subject to the affirmative action requirements of 41 CFR Part 60-2.

7. The issues resolved by this Decree were initially identified during a compliance review of Volvo's New River Valley plant conducted by OFCCP in 1989. OFCCP notified Volvo of its intention to conduct the review by letter dated December 23, 1988.

8. OFCCP's investigation revealed that in March 1987, Volvo collected employment applications from which to hire for projected operative positions between 1987 through 1989. On March 7, 1987, Volvo received 7,209 applications. From those applications, Volvo hired a total of 426 individuals into various operative positions. OFCCP's review focused, *inter alia*, upon that hiring activity.

9. On August 7, 1989, OFCCP issued to Volvo a notice of violation stating in part its position that Volvo's hiring for operatives, during the period from March 7, 1987, through at least August 1989, violated its obligations as a Federal contractor under Executive Order 11246 and its implementing regulations in that the company failed to hire qualified female applicants for these positions. OFCCP has attempted to secure voluntary compliance with Executive Order 11246 through conciliation and persuasion. Volvo denies that its hiring of operatives violated the Executive Order, but nevertheless has entered into this Consent Decree.

II

GENERAL PROVISIONS

10. This Consent 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 Secretary of Labor.

11. This Consent Decree constitutes full and final settlement and resolution of all issues, actions, causes of action and claims arising, or that could have arisen, out of the

administrative complaint filed herein; this Decree shall be binding upon the parties as to all issues, actions, causes of action and claims within the scope of the administrative complaint which have been or could have been advanced by OFCCP.

12. Subject to the performance by Volvo of all duties and obligations contained in this Consent Decree, all alleged deficiencies identified in the administrative complaint shall be deemed fully resolved. Volvo further recognizes its obligation to comply with the requirements of the Executive Order and the regulations promulgated pursuant thereto so long as it remains a Government contractor.

13. The Effective Date of this Consent Decree shall be the date on which the Order approving it is signed by the Administrative Law Judge.

14. Volvo agrees that OFCCP may review compliance with this Decree. As part of such review, OFCCP may, within reasonable limits and upon reasonable notice, require written reports, inspect the premises, examine witnesses and copy documents relating to such compliance.

15. Volvo agrees 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 Volvo under Executive Order 11246.

III

SPECIFIC PROVISIONS

16. Beginning with the first "new hire" opening that occurs Volvo shall hire into the next thirty-three (33) entry-level assembler positions members of the affected class before it hires

individuals at the New River Valley plant who are not class members. An opening shall not be deemed a "new hire" opening if there is an employee of the New River Valley plant who is on layoff and has contractually assured recall rights to his/her position that have not expired.

17. OFCCP will have sixty (60) calendar days from the Effective Date of this Decree to locate class members, confirm their current addresses, and to identify those with a current desire for employment at Volvo. During this time period, OFCCP shall send each class member a Notification of Entry of Consent Decree and Class Member Information Form attached hereto as Appendix A and B respectively. Within five (5) business days after the date on which it mails the Notices, OFCCP shall advise Volvo in writing of the date of the mailing. OFCCP will provide Volvo with the Final List of class members whom OFCCP has located and who have expressed a current desire for employment at Volvo not later than thirty (30) calendar days after the end of this sixty (60) day period. The Final List shall include names, addresses, phone numbers and social security numbers for each of the class members.

18. Within thirty (30) calendar days following its receipt of the Final List described in Paragraph 17, Volvo shall send a notice by first-class mail to each individual whose name appears on the Final List. The notice shall inform the class member that she may submit an updated application for an assembler position within forty (40) calendar days of the date on the letter. The notice will also state that the recipient may be chosen for an interview. The notice will state that if the recipient successfully completes the interview, she will be asked to take a written examination, and that if she passes the written examination, she will be required to undergo a drug screen. A copy of the employment application form presently used by Volvo shall be included with the notice. A copy of the notification letter is appended to this Decree as

Attachment C. Within thirty (30) calendar days of the close of the period set aside for class members to return updated applications, Volvo will submit to OFCCP copies of the newly completed applications it receives within the time period set forth above from the individuals listed on the Final List.

19. Only those individuals who timely submit a completed, updated application and who meet three threshold requirements will be considered for employment. These requirements are:

- a. a high school diploma or its equivalent;
- b. a passing score on a written examination which Volvo administers to all its job applicants for the entry-level assembler positions; and
- c. a drug screen.

20. Within forty-five (45) calendar days from receipt of the employment applications, Volvo shall compile a rank-ordered hiring list for assembler positions from those applicants who have returned updated employment applications indicating that they possess a high school diploma or equivalent. OFCCP shall then have an opportunity to review and comment upon this rank-ordered list within ten (10) business days of its receipt. If OFCCP and Volvo are unable to agree upon the rank-ordering, the matter shall be presented to the Administrative Law Judge on joint motion with a request for an expedited hearing.

21. When openings occur for which women on the rank-ordered list are to be hired (as provided in paragraph 16), Volvo will interview the women in the order in which they appear on the rank-ordered list. Those women who successfully complete the interview will be sent to take

a written exam. Those women receiving a passing score on the examination will be asked to take a drug screen.

22. Volvo will offer assemblers jobs to those women who successfully complete the interview, obtain a passing score on the written examination, and have a negative drug screen in the order in which those women appear on the rank-ordered list until thirty-three (33) offers have been accepted or the list has been exhausted, whichever occurs first.

23. Offers pursuant to Paragraph 22 will be made by first-class mail to the address listed on the individual's resubmitted application (or to an updated address if one has been provided) and will state the position, shift and starting wage offered. The letter containing the offer will instruct the individual that she must respond, verbally or in writing, to the offer within ten (10) work days from the date of the letter or the offer will be withdrawn by Volvo. The offer will also inform the individual that, if the offer is accepted, she will be provided up to thirteen (13) work days from the date of receipt of the offer in which to start work. The envelope in which the offer is mailed will prominently state: "URGENT - OPEN IMMEDIATELY." A copy of the offer will be mailed simultaneously to OFCCP.

24. All class members hired by Volvo pursuant to this Decree will be required to complete the company's usual ninety (90) day probationary period.

(A) In the event that Volvo dismisses a hired class member within the probationary period before her union rights have vested, Volvo will notify OFCCP within five (5) working days of the dismissal. OFCCP shall be afforded the opportunity to review and discuss with Volvo the cause of such termination. If OFCCP disagrees with Volvo that the termination is appropriate and in keeping with the

spirit of this Decree, the matter shall be presented to the Administrative Law Judge on joint motion with a request for an expedited hearing. In the event that the Administrative Law Judge agrees with OFCCP that the termination was inappropriate, the individual in question shall be reinstated with back pay and seniority.

- (B) In the event that Volvo dismisses a class member who is on probation after her union rights have vested and that class member elects to challenge that discharge by invoking the grievance process provided her by the collective bargaining agreement then in effect, OFCCP's review of such action will be stayed pending the conclusion of the union grievance process.

25. Volvo will maintain and update an Affirmative Action Program (AAP) at the New River Valley plant which is in compliance with the requirements of the Executive Order, Section 503 of the Rehabilitation Act of 1973, the nondiscrimination provisions of the Vietnam Era Veterans' Readjustment Assistance Act (38 U.S.C. §4212), and the implementing regulations found at 41 CFR Chapter 60.

26. Within thirty (30) calendar days of the Effective Date of this Consent Decree, Volvo shall furnish to OFCCP at the address indicated in paragraph 28 below, a copy of its current AAP for the Volvo New River Valley plant.

IV

REPORTING

27. This Decree shall not terminate until thirty-three (33) offers for employment have been made and accepted or until the hire list established pursuant to paragraph 20 of this

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agreement has been exhausted, whichever occurs first. Ninety (90) calendar days after the terms of the Decree have been satisfied, the parties will move jointly for dismissal of this matter.

28. Volvo shall submit written reports to William Thorpe, District Director, OFCCP, 700 Center, Suite 570, 700 East Franklin Street, Richmond, VA 23219, quarterly during the life of the Decree. These reports shall be submitted within forty-five (45) calendar days following the end of each calendar quarter, and shall include the following:

- (A) a list of individuals who appear on the Final List, indicating for each:
 - (1) name and social security number;
 - (2) whether an updated application has been received;
 - (3) whether she has been disqualified from receiving an offer of employment under this Decree for any of the reasons set forth in Paragraph 19, above, and if so, the specific reason for the disqualification;
 - (4) whether she has been offered but declined employment and, if so, the date on which such offer was made;
 - (5) if she accepted an offer of employment but failed to report, the reason for

the failure to report, if known (including reasons related to Volvo's post offer physical exam); and

(6) if she has been hired, the position she occupies at Volvo as of the date of the report.

(B) a list of any individuals who fail to successfully complete the probationary period, indicating for each:

(1) name and social security number;

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(2) date of termination; and

(3) the reason for termination.

V

**IMPLEMENTATION AND ENFORCEMENT
OF THE DECREE**

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

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

31. Volvo agrees that OFCCP may review compliance with this Consent Decree. If at any time during the term of this Decree, OFCCP believes that Volvo has violated any portion of this Consent Decree, Volvo will be promptly notified of the fact in writing. This notification will include a statement of the facts and circumstances relied

upon by OFCCP in forming that belief. Volvo will have fifteen (15) calendar days in which to respond in writing to the allegations of violation, except in those circumstances where OFCCP alleges that such a delay would result in irreparable injury.

32. 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 of a motion for an order of enforcement and/or sanctions. The Administrative Law Judge may, if he deems it appropriate to 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.

33. If a motion for an order of enforcement or clarification indicates by signature of counsel that the motion is unopposed by Plaintiff or Defendant, as appropriate, the motion may be presented to the Administrative Law judge without hearing, and the proposed order may be implemented immediately. If said application or motion is opposed by any party, the party in opposition shall file a written response within twenty (20) calendar days of service of such motion.

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

35. The Consent Decree herein set forth is hereby approved, and this action is hereby settled. Jurisdiction over this matter is retained pursuant to the provisions of paragraphs 27 and 29 above.

IT IS SO ORDERED, ADJUDGED AND DECREED:

Dated: 10/11/00

Administrative Law Judge

AGREED:

For Volvo GM Heavy Truck
Corporation, now known as
Volvo Trucks North America:

STAN C. ELLSPERMANN
Vice President
Human Resources

For Office of Federal Contract Compliance
Programs:

HENRY L. SOLANO
Solicitor

GARY M. BUFF
Acting Associate Solicitor

DEBRA A. MILLENSON
Senior Trial Attorney

MICHELLE SERROU
Trial Attorney

DAVID L. KING
Law Clerk

United States Department of Labor
Office of the Solicitor
200 Constitution Avenue, NW
Washington, DC 20210

APPENDIX A

NOTIFICATION OF ENTRY OF CONSENT DECREE

VIA REGULAR MAIL

DATE

Class Member
Current Address
City, State

Re: **IMPORTANT NOTICE**
OFCCP v. Volvo GM Heavy Truck Corporation, Case No. 96-OFC-2

Dear Class Member:

The United States Department of Labor, Office of Federal Contract Compliance Programs ("OFCCP") and Volvo GM Heavy Truck Corporation, now known as Volvo Trucks North America ("Volvo") have been involved in a legal dispute related to Volvo's hiring practices for the period March 7, 1987 through December 31, 1989. You have been identified as one of the women who applied for an assembler position at Volvo's New River Valley plant in Dublin, VA on March 7, 1987, but who were not hired.

As part of the settlement, you may be considered for future employment as an entry-level assembler at Volvo as positions become available. A limited number of entry level positions will be filled by class members. There is no pre-determined time frame in which offers for employment must be made. Volvo is hopeful that it will be able to extend job offers within a reasonable period of time, but it is not certain when such job offers will be made. Over the coming months, Volvo will be contacting those of you who have expressed a current desire for employment at Volvo to ask for each of you to update an employment application.

Volvo has not admitted nor has there been any adjudicated finding that Volvo discriminated against you or any other March 7, 1987 applicant in hiring for assemblers positions. Rather, the OFCCP and Volvo have entered into this settlement agreement to resolve the matter without further legal proceedings.

To be eligible to be considered for employment at Volvo, please **complete** the enclosed Class Member Information Form and return it to me in the enclosed self-addressed, stamped envelope within thirty (30) days from the date of this letter. This form will provide us with the information necessary to confirm our records and to ensure that you will be considered for possible future employment at Volvo. Please complete this Class Member Information form and return it within the thirty-day period **even if** you have contacted our office previously to provide us with your address and phone number.

Should you have any questions about the settlement procedure, please leave a message on the Department of Labor's Volvo Settlement Hotline at (202) 219-7999, ext. XXX, or you can write to:

Attn: Volvo Settlement
U.S. Department of Labor
Division of Civil Rights
200 Constitution Avenue, N. W.
Room N-2464
Washington, D.C. 20210

Sincerely,

Trial Attorney
United States Department of Labor

Enclosures

APPENDIX B
CLASS MEMBER INFORMATION FORM
OFCCP v. Volvo GM Heavy Truck Corporation

Name:

Other Name(s) Used:
(include unmarried name)

Social Security Number:

Address:

Street

City

State

Zip code

Home Telephone Number:

Area Code

Phone number

Work Telephone Number:

Area Code

Phone number

Person who will know how to contact you if you move:

Name:

Address:

Street

City

State

Zip code

Telephone Number:

Area Code

Phone number

Are you currently interested in employment at Volvo?

YES

NO

DATE

YOUR SIGNATURE

PLEASE MAIL FORM TO:

Name

U.S. Department of Labor

200 Constitution Avenue, N.W.

Room N-2464

Washington, D.C. 20210

APPENDIX C

NOTICE TO CLASS MEMBERS OF OPPORTUNITY TO REAPPLY
FOR AN ENTRY-LEVEL ASSEMBLER POSITION AT VOLVO

VIA REGULAR MAIL

DATE

Class Member

Street

City, State, Zip

Subject: **IMPORTANT NOTICE**
 OFCCP v. VOLVO GM Heavy Truck Corporation

Dear Class Member:

By letter dated [date], you were notified that a settlement had been reached in a matter in litigation between the United States Department of Labor, Office of Federal Contract Compliance Programs ("OFCCP"), and Volvo GM Heavy Truck Corporation, now known as Volvo Trucks North America ("Volvo"). In that letter, you were informed that, as part of the agreement in that matter, you would be given an opportunity to complete a current application for an entry-level assembler position with Volvo, and may receive a future offer of employment.

Enclosed is a Volvo employment application. If you wish to be considered for an entry-level assembler position at the New River Valley plant in the event vacancies occur, please complete the enclosed application form and return it to me at the above address **within forty (40) days the date of this letter**. Only those applications which are timely received and which are completed fully will be considered.

It is not certain that you will receive a job offer. In the event that you are contacted by Volvo for further evaluation, you may be called in for an interview. Upon successful completion of the interview you will be asked to take a written examination. Those passing the written examination will be required to undergo a drug test.

Should you have any questions about the application form or this letter, please leave a message on the Department of Labor's Volvo Settlement Hotline at (202) 219-7999, ext. XXX.

Sincerely,

[Name of Representative], [Position]

Enclosure