

period to "eligible" employees for certain family and medical reasons. Leave must be granted to "eligible" employees because of the birth of a child and to care for the newborn child, because of the placement of a child with the employee for adoption or foster care, because the employee is needed to care for a family member (child, spouse, or parent) with a serious health condition, or because the employee's own serious health condition makes the employee unable to perform any of the essential function of his or her job. This information collection contains recordkeeping and notification requirements associated with the Act and regulations. Implementing regulations are found at 29 CFR Part 825. Two optional forms are included in this information collection request. The WH-380, Certification of Health Care Provider, may be used to certify a serious health condition under FMLA. The WH-381, Employer Response to Employee Request for Family or Medical Leave may be used by an employer to respond to a leave request under FMLA. Both forms are third-party notifications and are sent to the employee; they are not submitted to the Department of Labor. This information collection is currently approved for use through July 31, 2003.

II. Review Focus

The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

III. Current Actions

The Department of Labor seeks approval for the extension of this information collection in order to ensure that both employers and employees are aware of and can exercise

their rights and meet their respective obligations under FMLA, and in order for the Department of Labor to carry out its statutory obligation under FMLA to investigate and ensure employer compliance have been met. Since OMB extended the expiration dates of the forms in July 2002, the Department has initiated a review of FMLA's implementing regulations to address issues raised by the U.S. Supreme Court in *Ragsdale v. Wolverine World Wide, Inc.*, 122 S. CT 1155 (2002), and decisions of other courts.

The Department expects to revise Forms WH-380 and WH-381, and these forms also may need to reflect changes that may be proposed to the FMLA regulations. The Department is requesting a one-year extension on the expiration date to the ICR. There is no change in the substance or method of collection since the last OMB approval.

Type of Review: Extension.

Agency: Employment Standards Administration.

Title: 29 CFR Part 825, The Family and Medical Leave Act of 1993.

OMB Number: 1215-0181.

Agency Number: WH-380, WH-381.

Affected Public: Individuals or household, Business or other for-profit, Not-for-profit institutions, Farms, State, Local or Tribal Government.

Total Respondents: 6.655 million.

Total Responses: 15.056 million.

Time per Response: 1 to 20 minutes.

Frequency: On Occasion (Recordkeeping, Third-Party Disclosure).

Estimated Total Burden Hours: 1,210,654.

Total Burden Cost (capital/startup): \$0.

Total Burden Cost (operating/maintenance): \$0.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: February 6, 2003.

Bruce Bohanon,

Chief, Branch of Management Review and Internal Control, Division of Financial Management, Office of Management, Administration and Planning, Employment Standards Administration.

[FR Doc. 03-3558 Filed 2-12-03; 8:45 am]

BILLING CODE 4510-27-P

DEPARTMENT OF LABOR

Office of Federal Contract Compliance Programs

Notice of Debarment

AGENCY: Office of Federal Contract Compliance Programs, Labor.

ACTION: Notice of debarment: BFI Waste Services, L.L.C.'s 260 West Dickman Street, Baltimore, facility (Division #50).

SUMMARY: This notice advises of the debarment of BFI Waste Services, L.L.C.'s 260 West Dickman Street, Baltimore, Maryland Facility (Division #50), (hereinafter "BFI"), as an eligible bidder on Government contracts or extensions or modifications of existing contracts. The debarment is effective immediately.

FOR FURTHER INFORMATION CONTACT:

Charles E. James, Sr., Deputy Assistant Secretary for Federal Contract Compliance, U.S. Department of Labor, 200 Constitution Ave., NW., Room C-3325, Washington, DC 20210 (202-693-1062).

SUPPLEMENTARY INFORMATION: On January 30, 2003, the United States Department of Labor's Administrative Law Judge Thomas M. Burke approved a Consent Decree, pursuant to Executive Order 11246, and its implementing regulations (41 CFR parts 60-1 *et seq.*). Under the terms of the Consent Decree, BFI Waste Service, L.L.C., its officers, agents, servants, employees, successors, divisions, subsidiaries, and persons in active concert or participation with them, agrees not to bid for or enter into Government contracts for a period of one hundred eighty (180) days from the effective date of this Consent Decree. The debarment shall be lifted at the conclusion of the one hundred eighty (180) day period, if BFI satisfies the Deputy Assistant Secretary that it is in compliance with Executive Order 11246. Further, the Consent Decree provides that during the debarment period, on BFI Facility will enter into any Government contracts and subcontracts that BFI's 260 West Dickman Street, Baltimore, Maryland Facility (Division #50), would have otherwise bid for and entered into during the debarment period.

Dated: February 3, 2003, Washington, DC.

Charles E. James, Sr.,

Deputy Assistant Secretary for Federal Contract Compliance.

BILLING CODE 4510-CM-M

U.S. Department of Labor

Office of Administrative Law Judges
800 K Street, NW, Suite 400-N
Washington, DC 20001-8002

(202) 693-7300
(202) 693-7365 (FAX)



In the Matter of

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

Date Issued: JAN 30 2003
Case Number: 2003-OFC-0002

v.

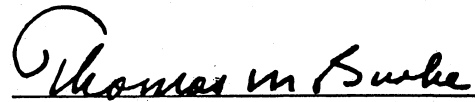
BFI WASTE SYSTEMS OF
NORTH AMERICA, INC.
Defendant

ORDER PURSUANT TO CONSENT DECREE

This case arises under Executive Order 11246 (30 Fed. Reg. 12319) as amended by Executive Order 11375 (32 Fed. Reg. 14303) and Executive Order 12086 (43 Fed. Reg. 46501) and the regulations issued at 41 C.F.R. Part 60. On January 7, 2003, the Department of Labor (DOL) filed an Administrative Complaint and Consent Decree in this Office.

Review of the Consent Decree shows that it is in compliance with 29 C.F.R. § 18.9 and that it fairly and adequately resolves all pending issues in this matter. Accordingly, the Consent Decree is hereby **APPROVED** and **ADOPTED** in its entirety.

So ORDERED,


Thomas M. Burke
Associate Chief Judge

TMB/lmr

SERVICE SHEET

Case Name: BFI Waste Systems
Case Number: 2003-OFC-0002
Title: Order

I certify that a copy of the above entitled document was sent to the last known addresses of the following parties on: JAN 30 2003


Lynn Marie Rongaus
Paralegal

Solicitor of Labor
Room S2002 FPB
200 Constitution Avenue NW
Washington, DC 20210

Jo Lynn White
BFI Waste Services
260 West Dickman Street
Baltimore, MD 21230

Civil Rights Division/USDOL
Room N2464 FPB
200 Constitution Avenue NW
Washington, DC 20210
Attn: Sarah Crawford, Esq.

Office of Federal Contract
Compliance Programs/USDOL
Room C3325 FPB
200 Constitution Avenue NW
Washington, DC 20210

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Jackson Lewis LLP
1000 Woodbury Road, Suite 402
Woodbury, NY 11797

**Office of Administrative Law Judges;
Consent Decree**

This Consent Decree (hereinafter "Consent Decree" or "Decree") is entered into between the Plaintiff, United States Department of Labor, Office of Federal Contract Compliance Programs (hereinafter "OFCCP"), and Defendant BFI Waste Services, LLC (hereinafter "BFI" or "Defendant"), in resolution of the Administrative Complaint filed by OFCCP pursuant to Executive Order 11246 (30 FR 12319), as amended by Executive Order 11375 (32 FR 14303) and Executive Order 12086 (43 FR 46501) ("Executive Order"). The Administrative Complaint alleged that Defendant violated the terms of a Conciliation Agreement that was executed by Defendant and OFCCP and that became effective in March 2000.

Part A. General Provisions

1. The record on the basis of which this Consent Decree is entered shall consist of the Complaint and the Consent Decree and the attachments thereto.
2. Attachment A of the Consent Decree consists of the Conciliation Agreement between OFCCP and Defendant which became effective in March 2000.
3. This Consent Decree shall not become final until it has been signed by the Administrative Law Judge, and the effective date of the Decree shall be the date it is signed by the Administrative Law Judge.
4. This Consent Decree shall be binding upon Defendant and any and all purchasers, successors, assignees, and/or transferees, and shall have the same force and effect as an order made after a full hearing.
5. All further procedural steps to contest the binding effect of the Consent Decree, and any right to challenge or contest the obligations entered into in accordance with the agreement contained in this Decree, are waived by the parties, except as provided hereunder.
6. Subject to the performance by Defendant of all duties and obligations contained in this Consent Decree, all alleged violations identified in the Administrative Complaint shall be deemed fully resolved. However, nothing herein is intended to relieve Defendant from compliance with the requirements of Executive Order 11246, Section 503 of the Rehabilitation Act, the Vietnam Era Veterans' Readjustment and Assistance Act, or their regulations, nor to limit OFCCP's right to review Defendant's compliance with such requirements.

7. Defendant agrees that there will be no retaliation of any kind against any beneficiary of this Consent Decree, or against any person who has provided information or assistance in connection with this Decree.

8. Defendant denies that it violated Executive Order 11246.

9. Defendant does not admit any violation of law or obligation. The parties agree that this Consent Decree is not, and may not be used, as an admission of any violation by Defendant, or as a basis for asserting Defendant's noncompliance with any labor and employment law, rules, or regulations, except for any action initiated pursuant to Paragraphs 27 to 30 of this Decree.

Part B. Jurisdiction and Procedural History

10. In its initial compliance review of Defendant in November 1999, OFCCP identified three violations of Executive Order 11246.

11. In March 2000, OFCCP and Defendant entered into a Conciliation Agreement to resolve the three violations.

12. Defendant was obligated to correct three alleged violations under the Conciliation Agreement, including: (1) Defendant's failure to provide accurate applicant flow data in support of its Affirmative Action Program; (2) Defendant's failure to offer equal employment opportunity to an applicant, Ms. Julie Ann Dunlap, for a position in the office and clerical job group; and (3) Defendant's failure to make good faith efforts to develop and execute an affirmative action plan to recruit women for the underutilized craftworker and laborer job groups.

13. The Conciliation Agreement obligated Defendant to provide two annual reports to enable OFCCP to monitor the company's compliance with the terms of the Conciliation Agreement. After Defendant submitted the first of the two reports, OFCCP determined that Defendant failed to comply with two provisions of the Conciliation Agreement. Specifically, OFCCP found that Defendant failed to (1) offer a customer service position to Ms. Julie Ann Dunlap with retroactive seniority and vesting status dating back to September 8, 1998, as well as a check for \$32,708.98 in back pay and interest through December 31, 1999; and (2) provide the specified recruitment sources with timely notice of its employment opportunities in the craftworker and laborer job groups.

14. Defendant contends that it made good faith efforts to offer Ms. Julie Ann

Dunlap employment, but that Ms. Dunlap never responded.

Part C. Specific Provisions*Job Offer to Ms. Julie Ann Dunlap*

15. If Ms. Dunlap executes and returns the General Release and Covenant Not to Sue described in paragraph 16 below, Defendant will offer the next available full-time customer service position at its Baltimore, Maryland facility to Ms. Julie Ann Dunlap as set forth below. The terms of this job offer will include retroactive seniority and vesting status dating back to September 8, 1998, the date of Ms. Dunlap's original application. The job offer will be made in writing by certified mail, return receipt requested, and will describe the job title, rate of pay, job site, description of job benefits, start date, expected duration of the job, and will specify a time period of at least two weeks for Ms. Dunlap to respond to the employment offer. The written job offer will explicitly state that it includes retroactive seniority and vesting status dating back to September 8, 1998. If Ms. Dunlap's address is unknown, Defendant will make all reasonable efforts to obtain Ms. Dunlap's current address. When Ms. Dunlap's current address is obtained, BFI will offer her the next available full-time customer service position. If Ms. Dunlap does not respond or execute and return the General Release and Covenant Not to Sue described in paragraph 16 below to "BFI Waste Services, L.L.C., at 260 West Dickman Street, Baltimore, Maryland 21230, Attn: Bill Booth, General Manager", within (14) days of receiving the offer, Defendant's hiring obligation hereunder shall cease. Defendant's hiring obligation will also cease if Ms. Dunlap fails the drug screen or the background check (consisting of a check of criminal records and references). Defendant affirms that these screens are administered to all applicants for customer service positions, and will be handled in a non-discriminatory manner and in accordance with policy and procedure. If Defendant determines that the results of Ms. Dunlap's drug screen or background check preclude her from employment, Defendant will provide information and documentation to OFCCP demonstrating that the failure to hire Ms. Dunlap is non-discriminatory and consistent with Defendant's policies and practices. Defendant will provide the name, job title, and business telephone number of each employee who made, or

contributed to, the decision not to hire Ms. Dunlap. Defendant agrees that OFCCP may review compliance with this Paragraph, and will provide OFCCP within a reasonable time with all documents that are reasonable and are requested by OFCCP. Defendant also agrees that, upon reasonable advance notice, OFCCP may come onsite at the BFI 260 West Dickman Street, Baltimore, Maryland facility as is necessary to review compliance with this Paragraph.

Monetary Relief to Ms. Julie Ann Dunlap

16. Within 10 days of the date upon which it receives a fully executed copy of this Decree, Defendant will send Ms. Dunlap by certified mail, return receipt requested the letter contained in Attachment B, along with a W-4 form and a General Release and Covenant Not to Sue, and ask that she complete both and return them at the address specified in the letter to Defendant within 14 days of her receipt thereof (as determined by the date she signs the return receipt card). Within 10 days of receiving the completed W-4 form and executed General Release and Covenant Not to Sue, Defendant will submit by certified mail, return receipt requested two checks to Ms. Julie Ann Dunlap in the

total amount of \$44,838.91 minus legal payroll deductions. The parties agree that this payment represents back pay (the first check) and interest (the second check) due to Ms. Dunlap for the period of September 8, 1998, to December 31, 2002. For tax purposes, the parties agree that \$35,289.58 of the total payment represents back pay and the remaining \$9,549.33 represents interest.

17. If Ms. Dunlap's address is unknown as of 10 days from the date upon which Defendant receives a fully executed copy of this Decree, Defendant will deposit the check for Ms. Dunlap into an interest bearing escrow account at that time. Defendant and OFCCP, jointly, will make all reasonable efforts to obtain Ms. Dunlap's current address. Defendant will pay Ms. Dunlap the balance of the escrow account, including accrued interest, within 10 days of the date upon which Defendant receives a completed W-4 form and the executed General Release and Covenant Not to Sue. In the event Ms. Dunlap does not receive the letter from BFI, the money shall remain in the escrow account until the cessation of the term of this Consent Decree. At the cessation of the term of the Consent Decree, the escrow account shall revert to the

Department of Labor, which will maintain the escrow account for Ms. Dunlap's benefit. If Ms. Dunlap is located thereafter, the Department of Labor will tender the money to Ms. Dunlap upon receipt of the executed General Release and Covenant Not to Sue, which it will forward to Defendant.

Recruitment Efforts

18. For a period of two years from the effective date of this Consent Decree, Defendant agrees to notify the recruitment and community agencies listed on page 11 of the Conciliation Agreement at least two weeks before interviewing is initiated for positions in the craftworker and laborer job groups. Defendant shall inform such recruitment sources of the minimum job qualifications required, wages, closing date for the vacancy, a job description, and the application procedures.

Reporting Requirements

19. Defendant agrees to provide reports to the U.S. Department of Labor, Office of the Solicitor, Division of Civil Rights, 200 Constitution Avenue NW., Room N-2464, Washington, DC 20210. Defendant will file a total of four reports according to the following schedule:

Report number	Covering period	Due to be sent
	(after effective date of Consent Decree)	
1	Days 1-60	Day 90.
2	Days 61-120	Day 150.
3	Days 121-360	Day 390.
4	Days 361-720	Day 750.

The reports will include documentation verifying the following information:

a. Defendant's job offer to Ms. Dunlap; or, if Ms. Dunlap is not hired due to the results of a drug screen and/or background check, Defendant will provide the information specified in Paragraph 15 of this Decree;

b. Defendant's deposit of monetary relief into an interest bearing escrow account, if Ms. Dunlap's address is unknown or she does not respond, send a W-4 form or execute the General Release and Covenant Not to Sue, including a statement of the balance of the account;

c. Defendant's payment of monetary relief to Ms. Dunlap when (and if) her current address is obtained, including the address to which the check was sent, the amount of the check, the date on which the check was mailed, and documentation verifying payment on the check; and

d. Defendant's good faith efforts to recruit and hire women in the craftworker and laborer job groups. Such documentation shall include, but shall not be limited to copies of letters sent to recruitment sources and an applicant log for positions in the craftworker and laborer job groups, specifying the name, gender, position applied for, job group number, date of application, referral source, and disposition of each applicant.

Debarment

20. The Office of Administrative Law Judges shall retain jurisdiction in this case for a period of two years from the effective date of this Consent Decree.

21. Defendant's 260 West Dickman Street, Baltimore, Maryland facility (Division #050) agrees not to bid for or enter into Government contracts or subcontracts for a period of one-hundred and eighty (180) days from the effective date of this Consent Decree.

This debarment period shall be effective against the officers, agents, servants, employees, successors, divisions, subsidiaries, and persons in active concert or participation with Defendant's 260 West Dickman Street, Baltimore, Maryland facility (Division #050). During the debarment period, no BFI facility will enter into any Government contracts or subcontracts that BFI's 260 West Dickman Street, Baltimore, Maryland facility (Division #050) would have otherwise bid for and entered into during the debarment period.

22. Notice of the debarment of "BFI's 260 West Dickman Street, Baltimore, Maryland facility (Division #050)" shall be printed in the **Federal Register**. In addition, OFCCP shall notify the Comptroller General of the United States General Accounting Office and all Federal Contracting Officers that "BFI's 260 West Dickman Street, Baltimore,

Maryland facility (Division #050)" is ineligible for the award of any Government contracts or subcontracts.

23. The debarment shall be lifted at the conclusion of the one-hundred and eighty (180) day period if Defendant satisfies the Director of OFCCP that it is in compliance with Executive Order 11246.

24. OFCCP shall review each of Defendant's reports and shall determine whether Defendant has complied with the terms of this Consent Decree and the terms of Executive Order 11246 and its implementing regulations. OFCCP shall notify Defendant in writing, within 30 days of receipt of the report, if there is a deficiency. Defendant shall have 30 days from its receipt of the deficiency notice to correct such deficiency.

25. If OFCCP finds that Defendant has complied with the terms of this Consent Decree and with the terms of Executive Order 11246, the debarment shall be lifted and Defendant shall be free to enter into future Government contracts and subcontracts. Beginning 30 days before the conclusion of the 180-day period, Defendant may request reinstatement pursuant to 41 CFR § 60-1.31. Reinstatement proceedings shall be in accordance with 41 CFR § 60-1.31. Notice of the reinstatement shall be printed in the **Federal Register** and shall be made to the Comptroller General of the General Accounting Office and all Federal Contracting Officers.

Part D. Implementation and Enforcement of the Decree

26. Jurisdiction, including the authority to issue any additional orders or decrees necessary to effectuate the implementation of the provisions of this Consent Decree, is retained by the Office of Administrative Law Judges for a period of two years from the date this Consent Decree becomes final. If any motion is pending before the Office of Administrative Law Judges two years from the date this Consent Decree becomes final, jurisdiction shall continue beyond two years and until such time as the pending motion is finally resolved.

27. If at any time during the two years OFCCP believes that Defendant has violated any portion of this Consent Decree, Defendant 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 Defendant with 15 days to respond in writing except where OFCCP alleges that such a delay would result in irreparable injury.

28. Enforcement proceedings for violation of this Consent Decree may be initiated at any time after the 15-day period referred to in Paragraph 24 has elapsed (or sooner, if irreparable injury is alleged) upon filing with the Court a motion for an order of enforcement and/or sanctions. The issues in a hearing on the motion shall relate solely to the issues of the factual and legal claims made in the motion.

29. Liability for violation of this Consent Decree shall subject Defendant to sanctions set forth in the Executive Order and its implementing regulations, as well as other appropriate relief, including contract cancellation.

30. If an application or motion for an order of enforcement or clarification indicates by signature of counsel that the application or motion is unopposed by the plaintiff or Defendant, as appropriate, the application or motion may be presented to the Court without hearing and the proposed Order may be implemented immediately. If an application or motion is opposed by any party, the party in opposition shall file a written response within twenty (20) days of service. The Office of Administrative Law Judges may, if it deems it appropriate, schedule an oral hearing on the application or motion.

31. The Consent Decree herein set forth is hereby approved and shall constitute the final Administrative Order in this case.

32. It is so ordered adjudged and decreed.

Agreed and Consented to:

On Behalf of BFI Waste Services, LLC:

Dated: December 19, 2002.

Jo Lynn White,
Officer, BFI Waste Services, LLC.

On Behalf of the Office of Federal Contract Compliance Programs:

Eugene Scalia, *Solicitor of Labor.*

Gary M. Buff,

Associate Solicitor.

Richard L. Gilman,

Counsel for Litigation.

Dated: December 27, 2002

Sarah C. Crawford,
Attorney, U.S. Department of Labor,
Room N-2464, 200 Constitution Ave.,
NW., Washington, DC 20210, (202) 693-5287.

Thomas M. Burke,
Administrative Law Judge.

Notice to Readers

Attachments A & B are available from the U.S. Department of Labor's Wirtz Labor Library, 200 Constitution Avenue, NW., Room N2439, Washington, DC 20210. It is open to the public from 8:15

am to 4:45 pm. For further information call (202) 693-6613.

[FR Doc. 03-3560 Filed 2-12-03; 8:45 am]

BILLING CODE 4510-CM-P

NUCLEAR REGULATORY COMMISSION

[Docket No. 40-8989 SMC-1559]

Envirocare of Utah, Inc.; Order Modifying Exemption From Requirements Relative to Possession of Special Nuclear Material

Envirocare of Utah, Inc. (Envirocare) operates a low-level waste (LLW) disposal facility in Clive, Utah. This facility is licensed by the State of Utah, an Agreement State. Envirocare is also licensed by Utah to dispose of mixed radioactive and hazardous wastes. In addition, Envirocare has a U.S. Nuclear Regulatory Commission (NRC) license to dispose of by product material as defined in 10 CFR part 40.

Section 70.3 of 10 CFR part 70 requires persons who own, acquire, deliver, receive, possess, use, or transfer special nuclear material (SNM) to obtain a license pursuant to the requirements in 10 CFR part 70. The licensing requirements in 10 CFR part 70 apply to persons in Agreement States possessing greater than critical mass quantities as defined in 10 CFR 150.11.

Pursuant to 10 CFR 70.14, "the Commission may * * * grant such exemptions from the requirements of the regulations in this part as it determines are authorized by law and will not endanger life or property or the common defense and security and are otherwise in the public interest."

On May 24, 1999, NRC transmitted an Order to Envirocare of Utah, Inc. The Order was published in the **Federal Register** on May 21, 1999, (64 FR 27826). The Order exempted Envirocare from certain NRC regulations and permitted Envirocare, under specified conditions, to possess waste containing SNM, in greater quantities than specified in 10 CFR part 150, at Envirocare's low-level waste (LLW) disposal facility located in Clive, Utah, without obtaining an NRC license pursuant to 10 CFR part 70. The methodology used to establish these limits is discussed in the 1999 Safety Evaluation Report (SER) that supported the 1999 Order.

Envirocare, in a letter dated July 3, and 29, 2002, proposes that NRC issue further exemptions by amending the 1999 Order as follows: (1) Include stabilization of liquid waste streams containing SNM; (2) include the thermal