to lifting the debarment shall not be unreasonably withheld.

16. In order to satisfy the Director of OFCCP that they are in compliance with the Executive Order and its implementing regulations, KAC, KISC and TK must accomplish each of the following regarding the Niagara Falls, New York, office:

a. KAC, KISC and TK must agree to list all employment opportunities within the eight Western New York counties with the New York State

Employment Service.

b. KÅC, KISC and TK must provide timely notification to female recruitment sources when they have an employment opportunity. KAC, KISC and TK provided OFCCP with a list of female recruitment sources on December 12, 1994, in fulfillment of their obligations under the conciliation agreement. KAC, KISC and TK must contact these sources when an opening is available in the eight Western New York counties.

c. KAC, KISC and TK agree to provide five (5) successive reports to the OFCCP Buffalo Offices, 6 Fountain Plaza, Suite 300, Buffalo, New York, 14202. Each report will include the following:

 List for the laborer craft the number of openings in the eight Western New York counties during the reporting

period.

2. List for the laborer craft the total number of applications and the number of female applications received in each reporting period within the eight Western New York counties.

3. Verification for the laborer craft that the above openings were referred to the New York State Employment Service and the female recruitment sources outlined in 16 a. and b. above in each reporting period.

4. List for the laborer craft the total number of hires and the number of female hires in each reporting period in the eight Western New York counties.

5. The reports will be due on the dates specified below and will cover the periods specified. Each report will be due on the dates designated for the five successive reports.

	Period covered	Date due
First report Second re-	12/25/94–1/28/95	2/6/95
port Third report Fourth re-	1/29/95–3/4/95 3/5/95–4/8/95	3/13/95 4/17/95
port Fifth report	4/9/95–5/6/95 5/7/95–6/3/95	5/15/95 6/12/95

17. In order to satisfy the Director of OFCCP that it is in compliance with the Executive Order and its implementing regulations, KESC and its existing or

newly created subsidiaries agree to accomplish each of the following:

a. They will not bid on a federal or federally assisted demolition or asbestos abatement contract for the period of debarment. However, it is understood that this will not preclude Kimmins Contracting Corporation from bidding or performing federal or federally assisted demolition contracts in the state of Florida. It is further understood that subsidiaries of KESC, other than KAC and KISC, will not be precluded from bidding on federal or federally assisted contracts which are for dismantling for resale or rebuilding, and not demolition or asbestos abatement.

b. Kimmins International Corporation agrees to withdraw the litigation pending before the United States District Court for the Eastern District of Virginia in Case No. 94–CV–169. The withdrawal of this lawsuit shall not be deemed to prejudice the rights of Kimmins International, KAC, KISC, TK, KESC or any of its subsidiaries to initiate future litigation alleging similar claims as those asserted in the pending matter should OFCCP initiate enforcement proceedings against KESC or any of its existing or newly created subsidiaries after the effective date of this Consent Decree. This provision shall not, in any way, preclude the Secretary of Labor from raising any defenses he deems appropriate to any newly filed litigation.

c. KESC will hire an EEO Director to assist its subsidiaries in compliance with the Executive Order and its implementing regulations. OFCCP will provide technical assistance to ensure compliance within the 180 debarment

period provided herein.

d. KESC and its current and newly created subsidiaries will file five (5) successive reports with OFCCP listing all federal and federally assisted projects on which it bid and the scope of such work. The reports will be due as follows:

	Period covered	Date due
First report Second re-	12/25/94–1/28/95	2/6/95
port Third report	1/29/95–3/4/95 3/5/95–4/8/95	3/13/95 4/17/95
Fourth re- port	4/9/95–5/6/95	5/15/95
Fifth report	5/7/95–6/3/95	6/12/95

18. The Buffalo District Office shall review each of the reports and shall determine whether there has been compliance with the terms of this Consent Decree and the terms of the Executive Order and its implementing regulations. OFCCP shall notify Defendants in writing, within ten (10)

days of receipt of each report, if there is a deficiency. Defendants shall be given fifteen (15) days to rectify the deficiency. If rectified within the fifteen (15) days, such deficiency shall not be deemed a breach of this agreement. All mailing shall be done by certified mail/return receipt.

19. If OFCCP finds that there has been compliance with the terms of this Consent Decree and with the terms of the Executive Order and its implementing regulations, the debarment of KAC, KISC and TK shall be lifted and such companies shall be free to enter into future Government contracts and subcontracts. OFCCP will notify KAC, KISC and TK within ten (10) days of the last report whether they will be reinstated. 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. It is understood that OFCCP may conduct an onsite review at the Niagara Falls, New York, office or projects in the eight Western New York counties to ensure compliance with the Consent Decree and the Executive Order. However, in no circumstances shall this review delay the determination of lifting the debarment beyond the ten (10) day period noted in this paragraph.

20. If OFCCP finds that there has not been compliance with the terms of the Consent Decree or with the terms of the Executive Order and its implementing regulations, OFCCP will notify KAC, KISC, TK and KESC within ten (10) days (after the twenty-five (25) day period noted in paragraph 18, above) that the debarment shall not be lifted and shall remain in effect until there is submission of three (3) consecutive monthly reports which demonstrate compliance with the Consent Decree, the Executive Order and its implementing regulations. KAC, KISC, TK and/or KESC may file a motion with the Administrative Law Judge for review of the Director's decision, and such companies may request a hearing at which the sole issue will be whether there has been compliance with the terms of this Consent Decree and the Executive Order and its implementing regulations.

21. Compliance, as used in this Consent Decree, shall mean that, with regard to the Niagara Falls, New York, office, KAC, KISC and TK have satisfied the provisions of Regulations 41 C.F.R. 60–4. In addition, KAC will make a good faith effort to determine whether there were available qualified female employees within the eight Western New York counties who would have