

§ 60-30.35

§ 60-30.35 Recommended decision after hearing.

Within 15 days after the hearing is concluded, the Administrative Law Judge shall recommend findings, conclusions, and a decision. The Administrative Law Judge may permit the parties to file written post-hearing briefs within this time period, but the Administrative Law Judge's recommendations shall not be delayed pending receipt of such briefs. These recommendations shall be certified, together with the record, to the Administrative Review Board, United States Department of Labor, for a final Administrative order. The recommended decision shall be served on all parties and amici to the proceeding.

[61 FR 19989, May 3, 1996]

§ 60-30.36 Exceptions to recommendations.

Within 10 days after receipt of the recommended findings, conclusions and decision, any party may submit exceptions to said recommendations. Exceptions may be responded to by other parties within 7 days after receipt by said parties of the exceptions. All exceptions and responses shall be filed with the Administrative Review Board, United States Department of Labor. Briefs or exceptions and responses shall be served simultaneously on all parties to the proceeding.

[61 FR 19989, May 3, 1996]

§ 60-30.37 Final Administrative order.

After expiration of the time for filing exceptions, the Administrative Review Board, United States Department of Labor, shall issue a final Administrative order which shall be served on all parties. Unless the Administrative Review Board, United States Department of Labor, issues a final Administrative order within 30 days after the expiration of the time for filing exceptions, the Administrative Law Judge's recommended decision shall become a final Administrative order which shall become effective on the 31st day after expiration of the time for filing exceptions. Except as to specific time periods required in this subsection, 41 CFR

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60-30.30 shall be applicable to this subsection.

[61 FR 19989, May 3, 1996]

PART 60-40—EXAMINATION AND COPYING OF OFCCP DOCUMENTS

Subpart A—General

Sec.

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AUTHORITY: E.O. 11246, as amended by E.O. 11375, and as amended by E.O. 12086; 5 U.S.C. 552.

SOURCE: 43 FR 49264, Oct. 20, 1978, unless otherwise noted.

Subpart A—General

§ 60-40.1 Purpose and scope.

This part contains the general rules of the OFCCP providing for public access to information from records of the OFCCP or its various compliance agencies. These regulations implement 5 U.S.C. 552, the Freedom of Information Act and supplement the policy and regulations of the Department of Labor, 29 CFR Part 70. It is the policy of the OFCCP to disclose information to the public and to cooperate with other public agencies as well as private parties seeking to eliminate discrimination in employment. This part sets forth generally the categories of records accessible to the public, the types of records subject to prohibitions or restrictions on disclosure, and the places at which and the procedures whereby members of the public may obtain access to and inspect and copy information from records in the custody of the OFCCP.

[43 FR 49264, Oct. 20, 1978; 43 FR 51401, Nov. 3, 1978]

§ 60-40.2 Information available on request.

(a) Upon the request of any person for identifiable records obtained or generated pursuant to Executive Order 11246 (as amended) such records shall be made available for inspection and copying, notwithstanding the applicability of the exemption from mandatory disclosure set forth in 5 U.S.C. 552 subsection (b), if it is determined that the requested inspection or copying furthers the public interest and does not impede any of the functions of the OFCCP, except in the case of records disclosure of which is prohibited by law.

(b) Consistent with the above, all contract compliance documents within the custody of the OFCCP shall be disclosed upon request unless specifically prohibited by law or as limited elsewhere herein. The types of documents which if in the custody of the OFCCP must be disclosed include, but are not limited to, the following:

(1) Affirmative action plans, whether or not reviewed and finally accepted by the OFCCP except as limited in 41 CFR 60-40.3(a)(1).

(2) Imposed plans and hometown plans, pending or approved.

(3) Text of final conciliation agreements.

(4) Validation studies of tests or other preemployment selection methods.

(5) Dates and times of scheduled compliance reviews.

§ 60-40.3 Information exempt from compulsory disclosure and which may be withheld.

(a) The following documents or parts thereof are exempt from mandatory disclosure by the OFCCP, and should be withheld if it is determined that the requested inspection or copying does not further the public interest and might impede the discharge of any of the functions of the OFCCP.

(1) Those portions of affirmative action plans such as goals and timetables which would be confidential commercial or financial information because they indicate, and only to the extent that they indicate, that a contractor plans major shifts or changes in his personnel requirements and he has not

made this information available to the public. A determination to withhold this type of information should be made only after receiving verification and a satisfactory explanation from the contractor that the information should be withheld.

(2) Those portions of affirmative action plans which constitute information on staffing patterns and pay scales but only to the extent that their release would injure the business or financial position of the contractor, would constitute a release of confidential financial information of an employee or would constitute an unwarranted invasion of the privacy of an employee.

(3) The names of individual complainants.

(4) The assignments to particular contractors of named compliance officers if such disclosure would subject the named compliance officers to undue harassment or would affect the efficient enforcement of the Executive order.

(5) Compliance investigation files including the standard compliance review report and related documents, during the course of the review to which they pertain or while enforcement action against the contractor is in progress or contemplated within a reasonable time. Therefore, these reports and related files shall not be disclosed only to the extent that information contained therein constitutes trade secrets and confidential commercial or financial information, inter-agency or intra-agency memoranda or letters which would not be available by law to a private party in litigation with the agency, personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, data which would be exempt from mandatory disclosure pursuant to the "informants privilege" or such information the disclosure of which is prohibited by statute.

(6) Copies of preemployment selection tests used by contractors.

(b) Other records may be withheld consistent with the Freedom of Information Act on a case-by-case basis, with the prior approval of the Director, OFCCP.

§ 60-40.4

§ 60-40.4 Information disclosure of which is prohibited by law.

The Standard Form 100 (EEO-1) which is submitted by contractors to the OFCCP or a Joint Reporting Committee servicing both the OFCCP and the EEOC shall be disclosed pending further instructions from the Director. The statutory prohibition on disclosure set forth in section 709(e) of the Civil Rights Act of 1964 is limited by the terms of that section to information obtained pursuant to the authority of title VII of that Act and its disclosure by employees of the EEOC.

Subpart B—Procedures for Disclosure

§ 60-40.5 Applicability of procedures.

Requests for the inspection and copying of information from records in the custody of the OFCCP which are identifiable and available under the provisions of Subpart A of this part shall be made and acted upon as provided in the following sections of this subpart. Officers and employees of the OFCCP are authorized by the Director to continue to furnish to the public, informally and without compliance with these procedures, information and copies from its records which prior to the enactment of the Freedom of Information Act (5 U.S.C. 552) were customarily furnished in the regular performance of their duties.

[43 FR 49264, Oct. 20, 1978; 43 FR 51401, Nov. 3, 1978]

§ 60-40.6 To whom to direct requests.

A request for contract compliance records or information shall be directed to the National OFCCP or appropriate OFCCP Regional or Area Office. If the person making the request does not know in which office the record is located, he may direct his request to the Director, Office of Federal Contract Compliance Programs, Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210, for appropriate handling.

§ 60-40.7 Partial disclosure.

If a requested record contains some materials which are protected from disclosure and other materials which

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are not so protected, identifying details or protected matters shall be deleted wherever analysis indicates that such deletions are feasible. Whenever such deletions are made, the remainder of the records may be disclosed.

§ 60-40.8 Facilities and procedures for disclosure.

(a) [Reserved]

(b) Procedures relating to the availability of records shall be governed by the Department of Labor regulations, 29 CFR 70.35 to 70.64.

PART 60-50—GUIDELINES ON DISCRIMINATION BECAUSE OF RELIGION OR NATIONAL ORIGIN

Sec.

60-50.1 Purpose and scope.

60-50.2 Equal employment policy.

60-50.3 Accommodations to religious observance and practice.

60-50.4 Enforcement.

60-50.5 Nondiscrimination.

AUTHORITY: Sec. 201, E.O. 11246, 30 FR 12319, and E.O. 11375, 32 FR 14303, as amended by E.O. 12086.

SOURCE: 43 FR 49265, Oct. 20, 1978, unless otherwise amended.

§ 60-50.1 Purpose and scope.

(a) The purpose of the provisions in this part is to set forth the interpretations and guidelines of the Office of Federal Contract Compliance Programs regarding the implementation of Executive Order 11246, as amended, for promoting and insuring equal employment opportunities for all persons employed or seeking employment with Government contractors and subcontractors or with contractors and subcontractors performing under federally assisted construction contracts, without regard to religion or national origin.

(b) Members of various religious and ethnic groups, primarily but not exclusively of Eastern, Middle, and Southern European ancestry, such as Jews, Catholics, Italians, Greeks, and Slavic groups, continue to be excluded from executive, middle-management, and other job levels because of discrimination based upon their religion and/or national origin. These guidelines are