

## § 60-1.11

41 CFR Ch. 60 (7-1-04 Edition)

### § 60-1.11 Payment or reimbursement of membership fees and other expenses to private clubs.

(a)(1) A contractor which maintains a policy or practice of paying membership fees or other expenses for employee participation in private clubs or organizations shall ensure that the policy or practice is administered without regard to the race, color, religion, sex, or national origin of employees.

(2) Payment or reimbursement by contractors of membership fees and other expenses for participation by their employees in a private club or organization which bars, restricts or limits its membership on the basis of race, color, sex, religion, or national origin constitutes a violation of Executive Order 11246 except where the contractor can provide evidence that such restrictions or limitations do not abridge the promotional opportunities, status, compensation or other terms and conditions of employment of those of its employees barred from membership because of their race, color, religion, sex, or national origin. OFCCP shall provide the contractor with the opportunity to present evidence in defense of its actions.

(b) The contractor has the responsibility of determining whether the club or organization restricts membership on the basis of race, color, religion, sex, or national origin. The contractor may make separate determinations for different chapters of an organization, and where it does so, may limit any necessary corrective action to the particular chapters which observe discriminatory membership policies and practices.

[46 FR 3896, Jan. 16, 1981]

EFFECTIVE DATE NOTE: At 46 FR 3896, Jan. 16, 1981, § 60-1.11 was added. At 46 FR 18951, Mar. 27, 1981, the effective date was deferred until further notice.

### § 60-1.12 Record retention.

(a) *General requirements.* Any personnel or employment record made or kept by the contractor shall be preserved by the contractor for a period of not less than two years from the date of the making of the record or the personnel action involved, whichever occurs later. However, if the contractor

has fewer than 150 employees or does not have a Government contract of at least \$150,000, the minimum record retention period shall be one year from the date of the making of the record or the personnel action involved, whichever occurs later. Such records include, but are not necessarily limited to, records pertaining to hiring, assignment, promotion, demotion, transfer, lay off or termination, rates of pay or other terms of compensation, and selection for training or apprenticeship, and other records having to do with requests for reasonable accommodation, the results of any physical examination, job advertisements and postings, applications and resumes, tests and test results, and interview notes. In the case of involuntary termination of an employee, the personnel records of the individual terminated shall be kept for a period of not less than two years from the date of the termination, except that contractors that have fewer than 150 employees or that do not have a Government contract of at least \$150,000 shall keep such records for a period of not less than one year from the date of the termination. Where the contractor has received notice that a complaint of discrimination has been filed, that a compliance evaluation has been initiated, or that an enforcement action has been commenced, the contractor shall preserve all personnel records relevant to the complaint, compliance evaluation or enforcement action until final disposition of the complaint, compliance evaluation or enforcement action. The term "personnel records relevant to the complaint," for example, would include personnel or employment records relating to the complainant and to all other employees holding positions similar to that held or sought by the complainant and application forms or test papers submitted by unsuccessful applicants and by all other candidates for the same position as that for which the complainant unsuccessfully applied. Where a compliance evaluation has been initiated, all personnel and employment records described above are relevant until OFCCP makes a final disposition of the evaluation.

(b) *Affirmative action programs.* A contractor establishment required under