

§ 60-30.33

hearing, and all the material allegations of fact contained in the complaint shall be deemed to be admitted. If a hearing is not requested or is waived, within 25 days of the complaint's filing, the Administrative Law Judge shall adopt as findings of fact the material facts alleged in the complaint, and shall order the appropriate sanctions and/or penalties sought in the complaint. The Administrative Law Judge's findings and order shall constitute a final Administrative order, unless the Office of the Solicitor, U.S. Department of Labor, files exceptions to the findings and order within 10 days of receipt thereof. If the Office of the Solicitor, U.S. Department of Labor, files exceptions, the matter shall proceed in accordance with § 60-30.36 of this part.

(d) If a request for a hearing is received within 20 days as provided by 41 CFR 60-30.6(a), the hearing shall be convened within 45 days of receipt of the request and shall be completed within 15 days thereafter, unless more hearing time is required.

§ 60-30.33 Discovery.

(a) Any party may serve requests for admissions in accordance with § 60-30.9 (b) and (c).

(b) Witness lists and hearing exhibits will be exchanged at least 10 days in advance of the hearing.

(c) For good cause shown, and upon motion made in accordance with § 60-30.8, the Administrative Law Judge may allow the taking of depositions. Other discovery will not be permitted.

§ 60-30.34 Conduct of hearing.

(a) At the hearing, the Government shall be given an opportunity to demonstrate the basis for the request for sanctions and/or remedies, and the contractor shall be given an opportunity to show that the violation complained of did not occur and/or that good cause or good faith efforts excuse the alleged violations. Both parties shall be allowed to present evidence and argument and to cross-examine witnesses.

(b) The hearing shall be informal in nature, and the Administrative Law Judge shall not be bound by formal rules of evidence.

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

§ 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

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.

60-40.1 Purpose and scope.

60-40.2 Information available on request.

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

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

Subpart B—Procedures for Disclosure

60-40.5 Applicability of procedures.

60-40.6 To whom to direct requests.

60-40.7 Partial disclosure.

60-40.8 Facilities and procedures for disclosure.

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