

§ 60-40.4

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.

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

§ 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

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

intended to remedy such unfair treatment.

(c) These guidelines are also intended to clarify the obligations of employers with respect to accommodating to the religious observances and practices of employees and prospective employees.

(d) The employment problems of blacks, Spanish-surnamed Americans, orientals, and American Indians are treated under Part 60-2 of this chapter and under other regulations and procedures implementing the requirements of Executive Order 11246, as amended. Accordingly, the remedial provisions of § 60-50.2(b) shall not be applicable to the employment problems of these groups.

(e) Nothing contained in this Part 60-50 is intended to supersede or otherwise limit the exemption set forth in § 60-1.5(a)(5) of this chapter for contracts with certain educational institutions.

§ 60-50.2 Equal employment policy.

(a) *General requirements.* Under the equal opportunity clause contained in section 202 of Executive Order 11246, as amended, employers are prohibited from discriminating against employees or applicants for employment because of religion or national origin, and must take affirmative action to insure that applicants are employed, and that employees are treated during employment, without regard to their religion or national origin. Such action includes, but is not limited to the following: Employment, upgrading, demotion, or transfer; Recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

(b) *Outreach and positive recruitment.* Employers shall review their employment practices to determine whether members of the various religious and/or ethnic groups are receiving fair consideration for job opportunities. Special attention shall be directed toward executive and middle-management levels, where employment problems relating to religion and national origin are most likely to occur. Based upon the findings of such reviews, employers shall undertake appropriate outreach and positive recruitment activities, such as those listed below, in order to