

before a determination of compliance is made. The contractor must provide all data determined by the compliance officer to be necessary for off-site analysis. Such data may only be coded if the contractor makes the key to the code available to the compliance officer. If the contractor believes that particular information which is to be taken off-site is not relevant to compliance with the Executive Order, the contractor may request a ruling by the OFCCP District/Area Director. The OFCCP District/Area Director shall issue a ruling within 10 days. The contractor may appeal that ruling to the OFCCP Regional Director within 10 days. The Regional Director shall issue a final ruling within 10 days. Pending a final ruling, the information in question must be made available to the compliance officer off-site, but shall be considered a part of the investigatory file and subject to the provisions of paragraph (g) of this section. The agency shall take all necessary precautions to safeguard the confidentiality of such information until a final determination is made. Such information may not be copied by OFCCP and access to the information shall be limited to the compliance officer and personnel involved in the determination of relevancy. Data determined to be not relevant to the investigation will be returned to the contractor immediately.

(g) *Public access to information.* The disclosure of information obtained from a contractor will be evaluated pursuant to the public inspection and copying provisions of the Freedom of Information Act, 5 U.S.C. 552, and the Department of Labor's implementing regulations at 29 CFR Part 70.

[43 FR 49240, Oct. 20, 1978; 43 FR 51400, Nov. 3, 1978, as amended at 62 FR 44189, Aug. 19, 1997]

EFFECTIVE DATE NOTE: At 70 FR 36265, June 22, 2005, §60-1.20 paragraphs (a)(3) and (g) were revised, effective July 22, 2005. For the convenience of the user, the revised text is set forth as follows:

**§ 60-1.20 Compliance evaluations.**

(a) \* \* \*

(3) *Compliance check.* A determination of whether the contractor has maintained records consistent with §60-1.12; at the con-

tractor's option the documents may be provided either on-site or off-site; or

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(g) *Public Access to Information.* OFCCP will treat information obtained in the compliance evaluation as confidential to the maximum extent the information is exempt from public disclosure under the Freedom of Information Act, 5 U.S.C. 552. It is the practice of OFCCP not to release data where the contractor is still in business, and the contractor indicates, and through the Department of Labor review process it is determined, that the data are confidential and sensitive and that the release of data would subject the contractor to commercial harm.

**§ 60-1.21 Filing complaints.**

Complaints shall be filed within 180 days of the alleged violation unless the time for filing is extended by the Deputy Assistant Secretary for good cause shown.

[43 FR 49240, Oct. 20, 1978; 43 FR 51400, Nov. 3, 1978, as amended at 62 FR 66971, Dec. 22, 1997]

**§ 60-1.22 Where to file.**

Complaints may be filed with the OFCCP, 200 Constitution Avenue, NW., Washington, DC 20210, or with any OFCCP regional or area office.

**§ 60-1.23 Contents of complaint.**

(a) The complaint shall include the name, address, and telephone number of the complainant, the name and address of the contractor or subcontractor committing the alleged discrimination, a description of the acts considered to be discriminatory, and any other pertinent information which will assist in the investigation and resolution of the complaint. The complaint shall be signed by the complainant or his/her authorized representative. Complaints alleging class-type violations which do not identify the alleged discriminatee or discriminatees will be accepted, provided the other requirements of this paragraph are met.

(b) If a complaint contains incomplete information, OFCCP shall seek the needed information from the complainant. In the event such information is not furnished to the Deputy Assistant Secretary within 60 days of the

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date of such request, the case may be closed.

[43 FR 49240, Oct. 20, 1978, as amended at 62 FR 66971, Dec. 22, 1997]

**§ 60-1.24 Processing of matters.**

(a) *Complaints.* OFCCP may refer appropriate complaints to the Equal Employment Opportunity Commission (EEOC) for processing under Title VII of the Civil Rights Act of 1964, as amended, rather than processing under E.O. 11246 and the regulations in this chapter. Upon referring complaints to the EEOC, OFCCP shall promptly notify complainant(s) and the contractor of such referral.

(b) *Complaint investigations.* In conducting complaint investigations, OFCCP shall, as a minimum, conduct a thorough evaluation of the allegations of the complaint and shall be responsible for developing a complete case record. The case record should contain the name, address, and telephone number of each person interviewed, the interview statements, copies, transcripts, or summaries (where appropriate) of pertinent documents, a reference to at least one covered contract, and a narrative report of the investigation with references to exhibits and other evidence which relate to the alleged violations.

(c)(1) [Reserved]

(2) If any complaint investigation or compliance review indicates a violation of the equal opportunity clause, the matter should be resolved by informal means whenever possible. Such informal means may include the holding of a compliance conference.

(3) Where any complaint investigation or compliance review indicates a violation of the equal opportunity clause and the matter has not been resolved by informal means, the Deputy Assistant Secretary shall proceed in accordance with § 60-1.26.

(4) When a prime contractor or subcontractor, without a hearing, shall have complied with the recommendations or orders of the Deputy Assistant Secretary and believes such recommendations or orders to be erroneous, he shall, upon filing a request therefor within ten days of such compliance, be afforded an opportunity for

a hearing and review of the alleged erroneous action.

(5) For reasonable cause shown, the Deputy Assistant Secretary may reconsider or cause to be reconsidered any matter on his/her own motion or pursuant to a request.

(d) *Reports to the Deputy Assistant Secretary.* (1) With the exception of complaints which have been referred to EEOC, within 60 days from receipt of a complaint or within such additional time as may be allowed by the Deputy Assistant Secretary for good cause shown, the complaint shall be processed and the case record developed containing the following information:

(i) Name and address of the complainant;

(ii) Brief summary of findings, including a statement regarding the contractor's compliance or noncompliance with the requirements of the equal opportunity clause;

(iii) A statement of the disposition of the case, including any corrective action taken and any sanctions or penalties imposed or, whenever appropriate, the recommended corrective action and sanctions or penalties.

(2) A written report of every preaward compliance review required by this regulation or otherwise required by the Deputy Assistant Secretary, shall be developed and maintained.

(3) A written report of every other compliance review or any other matter processed involving an apparent violation of the equal opportunity clause shall be made. Such report shall contain a brief summary of the findings, including a statement of conclusions regarding the contractor's compliance or noncompliance with the requirements of the order, and a statement of the disposition of the case, including any corrective action taken or recommended and any sanctions or penalties imposed or recommended.

[43 FR 49240, Oct. 20, 1978, as amended at 62 FR 66971, Dec. 22, 1997]

**§ 60-1.25 Assumption of jurisdiction by or referrals to the Deputy Assistant Secretary.**

The Deputy Assistant Secretary may inquire into the status of any matter pending before an agency. Where he