

and all areas within the corporation to ensure compliance with Executive Order 11246.

§ 60-2.31 Program summary.

The affirmative action program must be summarized and updated annually. The program summary must be prepared in a format which will be prescribed by the Deputy Assistant Secretary and published in the FEDERAL REGISTER as a notice before becoming effective. Contractors and subcontractors must submit the program summary to OFCCP each year on the anniversary date of the affirmative action program.

§ 60-2.32 Affirmative action records.

The contractor must make available to the Office of Federal Contract Compliance Programs, upon request, records maintained pursuant to § 60-1.12 of this chapter and written or otherwise documented portions of AAPs maintained pursuant to § 60-2.10 for such purposes as may be appropriate to the fulfillment of the agency's responsibilities under Executive Order 11246.

§ 60-2.33 Preemption.

To the extent that any state or local laws, regulations or ordinances, including those that grant special benefits to persons on account of sex, are in conflict with Executive Order 11246, as amended, or with the requirements of this part, they will be regarded as preempted under the Executive Order.

§ 60-2.34 Supersedure.

All orders, instructions, regulations, and memorandums of the Secretary of Labor, other officials of the Department of Labor and contracting agencies are hereby superseded to the extent that they are inconsistent with this Part 60-2.

§ 60-2.35 Compliance status.

No contractor's compliance status will be judged alone by whether it reaches its goals. The composition of the contractor's workforce (*i.e.*, the employment of minorities or women at a percentage rate below, or above, the goal level) does not, by itself, serve as a basis to impose any of the sanctions authorized by Executive Order 11246

and the regulations in this chapter. Each contractor's compliance with its affirmative action obligations will be determined by reviewing the nature and extent of the contractor's good faith affirmative action activities as required under § 60-2.17, and the appropriateness of those activities to identified equal employment opportunity problems. Each contractor's compliance with its nondiscrimination obligations will be determined by analysis of statistical data and other non-statistical information which would indicate whether employees and applicants are being treated without regard to their race, color, religion, sex, or national origin.

PART 60-3—UNIFORM GUIDELINES ON EMPLOYEE SELECTION PROCEDURES (1978)

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§ 60-3.1

AUTHORITY: Secs. 201, 202, 203, 203(a), 205, 206(a), 301, 303(b), and 403(b) of E.O. 11246; as amended by sec. 715 of Civil Rights Act of 1964, as amended (42 U.S.C. 2000(e)-14).

SOURCE: 43 FR 38295, 38314, August 25, 1978, unless otherwise noted.

GENERAL PRINCIPLES

§ 60-3.1 Statement of purpose.

A. *Need for uniformity—Issuing agencies.* The Federal government's need for a uniform set of principles on the question of the use of tests and other selection procedures has long been recognized. The Equal Employment Opportunity Commission, the Civil Service Commission, the Department of Labor, and the Department of Justice jointly have adopted these uniform guidelines to meet that need, and to apply the same principles to the Federal Government as are applied to other employers.

B. *Purpose of guidelines.* These guidelines incorporate a single set of principles which are designed to assist employers, labor organizations, employment agencies, and licensing and certification boards to comply with requirements of Federal law prohibiting employment practices which discriminate on grounds of race, color, religion, sex, and national origin. They are designed to provide a framework for determining the proper use of tests and other selection procedures. These guidelines do not require a user to conduct validity studies of selection procedures where no adverse impact results. However, all users are encouraged to use selection procedures which are valid, especially users operating under merit principles.

C. *Relation to prior guidelines.* These guidelines are based upon and supersede previously issued guidelines on employee selection procedures. These guidelines have been built upon court decisions, the previously issued guidelines of the agencies, and the practical experience of the agencies, as well as the standards of the psychological profession. These guidelines are intended to be consistent with existing law.

§ 60-3.2 Scope.

A. *Application of guidelines.* These guidelines will be applied by the Equal

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Employment Opportunity Commission in the enforcement of title VII of the Civil Rights Act of 1964, as amended by the Equal Employment Opportunity Act of 1972 (hereinafter "Title VII"); by the Department of Labor, and the contract compliance agencies until the transfer of authority contemplated by the President's Reorganization Plan No. 1 of 1978, in the administration and enforcement of Executive Order 11246, as amended by Executive Order 11375 (hereinafter "Executive Order 11246"); by the Civil Service Commission and other Federal agencies subject to section 717 of Title VII; by the Civil Service Commission in exercising its responsibilities toward State and local governments under section 208(b)(1) of the Intergovernmental-Personnel Act; by the Department of Justice in exercising its responsibilities under Federal law; by the Office of Revenue Sharing of the Department of the Treasury under the State and Local Fiscal Assistance Act of 1972, as amended; and by any other Federal agency which adopts them.

B. *Employment decisions.* These guidelines apply to tests and other selection procedures which are used as a basis for any employment decision. Employment decisions include but are not limited to hiring, promotion, demotion, membership (for example, in a labor organization), referral, retention, and licensing and certification, to the extent that licensing and certification may be covered by Federal equal employment opportunity law. Other selection decisions, such as selection for training or transfer, may also be considered employment decisions if they lead to any of the decisions listed above.

C. *Selection procedures.* These guidelines apply only to selection procedures which are used as a basis for making employment decisions. For example, the use of recruiting procedures designed to attract members of a particular race, sex, or ethnic group, which were previously denied employment opportunities or which are currently underutilized, may be necessary to bring an employer into compliance with Federal law, and is frequently an essential element of any effective affirmative action program; but recruitment practices are not considered by