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whether they are complying with this subpart.

(b) *Complaints.* Any person who believes himself or any specific class of persons to be subjected to discrimination prohibited by this subpart may by himself or by a representative file with the Director, Office of Personnel Management a written complaint. A complaint shall be filed not later than 90 days after the date of the alleged discrimination, unless the time for filing is extended by OPM.

(c) *Investigations.* OPM will make a prompt investigation whenever a compliance review, report, complaint, or other information indicates a possible failure to comply with this subpart. The investigation will include, when appropriate, a review of the pertinent practices and policies of the recipient, the circumstances under which the possible noncompliance with this subpart occurred, and other factors relevant to a determination as to whether the recipient has failed to comply with this subpart.

(d) *Resolution of matters.* (1) If an investigation pursuant to paragraph (c) of this section indicates a failure to comply with this subpart, OPM will so inform the recipient and the matter will be resolved by voluntary means whenever possible. If it has been determined that the matter cannot be resolved by voluntary means, action will be taken as provided for in § 900.408.

(2) If an investigation does not warrant action pursuant to paragraph (d)(1) of this section, OPM will so inform, in writing, the recipient and the complainant, if any.

(e) *Intimidatory or retaliatory acts prohibited.* A recipient or other person shall not intimidate, threaten, coerce, or discriminate against an individual for the purpose of interfering with a right or privilege secured by section 601 of title VI or this subpart, or because he has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this subpart. The identity of complainants shall be kept confidential; except to the extent necessary to carry out the purposes of this subpart, including the conduct of an investigation, hearing, or judicial proceeding arising thereunder.

§ 900.408 Procedure for effecting compliance.

(a) *General.* (1) If there appears to be a failure or threatened failure to comply with this subpart, and if the noncompliance or threatened noncompliance cannot be corrected by informal means, compliance with this subpart may be effected by the suspension or termination of or refusal to grant or to continue Federal financial assistance or by other means authorized by law.

(2) Other means may include, but are not limited to, (i) a reference to the Department of Justice with a recommendation that appropriate proceedings be brought to enforce the rights of the United States under a law of the United States (including other titles of the Civil Rights Act of 1964), or an assurance or other contractual undertaking, and (ii) an applicable proceeding under State or local law.

(b) *Noncompliance with § 900.405.* If an applicant fails or refuses to furnish an assurance required under § 900.405 or otherwise fails or refuses to comply with a requirement imposed by or pursuant to that section, Federal financial assistance may be refused in accordance with the procedures of paragraph (c) of this section. OPM shall not be required to provide assistance in that case during the pendency of the administrative proceedings under this paragraph. Subject, however, to § 900.412, OPM shall continue assistance during the pendency of the proceedings where the assistance is due and payable pursuant to an application approved prior to the effective date of this subpart.

(c) *Termination of or refusal to grant or to continue Federal financial assistance.* An order suspending, terminating, or refusing to grant or to continue Federal financial assistance shall not become effective until—

(1) OPM has advised the applicant or recipient of his failure to comply and has determined that compliance cannot be secured by informal voluntary means;

(2) There has been an express finding on the record, after opportunity for hearing, of a failure by the applicant or recipient to comply with a requirement imposed by or pursuant to this subpart;

(3) The action has been approved by the Office of Personnel Management pursuant to §900.410(e); and

(4) The expiration of 30 days after the Director, Office of Personnel Management has filed with the committee of the House and the committee of the Senate having legislative jurisdiction over the program involved, a full written report of the circumstances and the grounds for the action.

An action to suspend or terminate or refuse to grant or to continue Federal financial assistance shall be limited to the particular political entity, or part thereof, or other applicant or recipient as to whom a finding has been made and shall be limited in its effect to the particular program, or part thereof, in which the noncompliance has been so found.

(d) *Other means authorized by law.* An action to effect compliance with title VI by other means authorized by law shall not be taken by OPM until—

(1) OPM has determined that compliance cannot be secured by voluntary means;

(2) The recipient or other person has been notified of its failure to comply and of the action to be taken to effect compliance; and

(3) The expiration of at least 10 days from the mailing of a notice to the recipient or person. During this period of at least 10 days, additional efforts shall be made to persuade the recipient or other person to comply with the regulation and to take corrective action as may be appropriate.

§900.409 Hearings.

(a) *Opportunity for hearing.* When an opportunity for a hearing is required by §900.408(c), reasonable notice shall be given by registered or certified mail, return receipt requested, to the affected applicant or recipient. This notice shall advise the applicant or recipient of the action proposed to be taken, the specific provision under which the proposed action against it is to be taken, and the matters of fact or law asserted as the basis for this action, and either (1) fix a date not less than 20 days after the date of notice within which the applicant or recipient may request of OPM that the matter be scheduled for hearing or (2) advise the applicant or recipient that the matter in question has been set down for hearing at a stated time and place. The time and place so fixed shall be reasonable and subject to change for cause. The complainant, if any, shall be advised of the time and place of the hearing. An applicant or recipient may waive a hearing and submit written information and argument for the record. The failure of an applicant or recipient to request a hearing under this paragraph or to appear at a hearing for which a date has been set is deemed to be a waiver of the right to a hearing under section 602 of title VI and §900.408(c) and consent to the making of a decision on the basis of the information as is available.

(b) *Time and place of hearing.* Hearings shall be held at the offices of OPM in Washington, DC, at a time fixed by OPM unless it determines that the convenience of the applicant or recipient or of OPM requires that another place be selected. Hearings shall be held before the Director of Office of Personnel Management, or at his/her discretion, before a hearing examiner appointed in accordance with section 3105 of title 5, United States Code, or detailed under section 3344 of title 5, United States Code.

(c) *Right to counsel.* In all proceedings under this section, the applicant or recipient and OPM have the right to be represented by counsel.

(d) *Procedures, evidence, and record.* (1) The hearing, decision, and an administrative review thereof shall be conducted in conformity with sections 554 through 557 of title 5, United States Code, and in accordance with the rules of procedure as are proper (and not inconsistent with this section) relating to the conduct of the hearing, giving of notices subsequent to those provided for in paragraph (a) of this section, taking of testimony, exhibits, arguments and briefs, requests for findings, and other related matters. Both OPM and the applicant or recipient are entitled to introduce relevant evidence on the issues as stated in the notice for hearing or as determined by the officer conducting the hearing at the outset of or during the hearing.

(2) Technical rules of evidence do not apply to hearings conducted pursuant