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of any employment test or other selection criterion that screens out or tends to screen out handicapped persons or any class of handicapped persons in any program or activity that receives Federal financial assistance unless the test score or other selection criterion, as used by the recipient, is shown to be job-related for the position in question and alternative job-related tests or criteria that do not screen out as many handicapped persons are not shown by the Office of Personnel Management's Personnel Research and Development Center to be available.

(2) A recipient shall select and administer tests concerning employment so as to ensure that, when administered under any program or activity that receives Federal financial assistance from OPM, to an applicant or employee who has a handicap that impairs sensory, manual, or speaking skills, the test results accurately reflect the applicant's or employee's ability to perform the duties of the type of position in question rather than reflecting the applicant's or employee's impaired sensory, manual, or speaking skills (except where those skills are the factors that the test purports to measure).

(d) *Preemployment inquiries.* (1) Except as provided in paragraph (d)(2) of this section, a recipient, when considering an applicant for employment under any program or activity receiving Federal financial assistance from OPM, may not conduct a preemployment medical examination and may not make preemployment inquiry of an applicant as to whether the applicant is a handicapped person or as to the nature or severity of a handicap. A recipient may, however, make preemployment inquiry into an applicant's ability to perform job-related functions.

(2) Nothing in this section shall prohibit an organization from conditioning an offer of employment under any program or activity receiving Federal financial assistance from OPM on the results of a medical examination conducted prior to the employee's entrance on duty: *Provided,* That (i) All entering employees are subjected to such an examination regardless of handicap or when a preemployment medical questionnaire used for positions which do not routinely require medical examination indicates a condition for which further examination is required because of the job-related nature of the condition; and

(ii) The results of such an examination are used in accordance with the requirements of this subpart.

§900.707 Certification required.

(a) *General.* Each application to OPM for financial assistance, as a condition to its approval and the extension of financial assistance, shall contain or be accompanied by, a certification from the applicant in a form prescribed by OPM that the program will be conducted in compliance with the requirements of this subpart. The assurance shall obligate the recipient for the period during which the financial assistance is extended to the program.

(b) *Certification from subgrantees.* A certification shall be required of all subgrantees receiving financial assistance from OPM to the effect that all programs or parts thereof carried out by subgrantees shall be in compliance with the requirements of this subpart. The recipient shall be responsible for securing the certification from subgrantees.

§900.708 Self-evaluation.

(a) Each recipient shall, within one year of the receipt of financial assistance, conduct or have conducted an evaluation of its compliance with this subpart with the assistance of interested persons, including handicapped persons or organizations representing handicapped persons. Each such recipient shall evaluate its current policies and practices and their effects, and modify any that do not meet the requirements of this part. Each such recipient shall permit the Office of Personnel Management, during normal business hours, to examine its self-evaluation along with its books, records, accounts, facilities and other sources of information as may be useful to determine whether there has been compliance with this subpart. Self-evaluation required under other Federal programs may be accepted by OPM if the information pertaining to activities receiving financial assistance from OPM is included and the

records are available to OPM representatives.

(b) Each recipient shall modify, after consultation with interested persons and organizations, including handicapped persons, any policies and practices that do not meet the requirements of this subpart; and

(c) Each recipient shall take, after consultation with interested persons, including handicapped persons or organizations representing handicapped persons, appropriate remedial steps to eliminate the effects of any discrimination that resulted from adherence to these policies and practices.

§ 900.709 Notice and consultation.

(a) Programs and activities receiving OPM financial support shall take appropriate initial and continuing steps to notify participants, beneficiaries, applicants, and employees, including those with impaired vision or hearing, that it does not discriminate on the basis of handicap in violation of Section 504 and this subpart.

(b) As appropriate, a recipient shall consult with interested persons, including handicapped persons or organizations representing handicapped persons, in achieving compliance with this subpart.

§ 900.710 Procedure for effecting compliance.

When the Office of Personnel Management determines that a recipient has failed or threatens to fail to comply with this subpart and the noncompliance or threatened noncompliance cannot be corrected by informal means, OPM may suspend or terminate or refuse to grant or continue financial assistance as provided in § 900.408 of title 5 of the Code of Federal Regulations.

PART 911—PROCEDURES FOR STATES AND LOCALITIES TO REQUEST INDEMNIFICATION

Sec.

911.101 Scope and purpose.
911.102 General definitions.
911.103 Eligibility for indemnification.
911.104 Procedures for requesting an indemnification agreement.
911.105 Terms of indemnification.

AUTHORITY: Title VIII, Access to Criminal History Records for National Security Purposes, of the Intelligence Authorization Act for Fiscal Year 1986, Pub. L. 99–169, sections 801–803, 99 Stat. 1002, 1008–1011 (1985) (codified in part at 5 U.S.C. 9101).

SOURCE: 52 FR 4491, Feb. 12, 1987, unless otherwise noted.

§ 911.101 Scope and purpose.

(a) The Office of Personnel Management (OPM) has the right to criminal history record information of State and local criminal justice agencies to determine whether a person may—

(1) Be eligible for access to classified information;

(2) Be assigned to sensitive national security duties; or

(3) Continue to be assigned to sensitive national security duties.

(b) This part sets out the conditions under which OPM may sign an agreement to indemnify and hold harmless a State or locality against claims for damages, costs, and other monetary loss caused by disclosure or use of criminal history record information by OPM.

(c) The procedures set forth in this part do not apply to situations when OPM seeks access to the criminal history records of another Federal agency.

(d) By law these provisions implementing 5 U.S.C. 9101(b)(3) will expire December 4, 1988, unless the duration of this section is extended or limited by Congress.

§ 911.102 General definitions.

In this part—

Criminal history record information means information collected by criminal justice agencies on individuals consisting of identifiable descriptions and notations of arrests, indictments, informations, or other formal criminal charges, and any disposition arising therefrom, sentencing, correction supervision, and release. The term does not include identification information such as fingerprint records to the extent that such information does not indicate involvement of the individual in the criminal justice system. The term does not include those records of a State or locality sealed pursuant to law from access by State and local