AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

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

criminal justice agencies of that State or locality.

Criminal justice agency includes Federal, State, and local agencies and means (a) courts; or (b) a Government agency or any subunit thereof which performs the administration of criminal justice pursuant to a statute or Executive order, and which allocates a substantial part of its annual budget to the administration of criminal justice.

Locality means any local government authority or agency or component thereof within a State having jurisdiction over matters at a county, municipal, or other local government level.

State means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, the Trust Territory of Pacific Islands, and any other territory or possession of the United States.

§ 911.103 Eligibility for indemnification.

As provided for under 5 U.S.C. 9101(b)(3), a State or locality may request an indemnification agreement.

(a) To be eligible for an indemnification agreement, a State or locality must have had a law in effect on December 4, 1985, that prohibited or had the effect of prohibiting the disclosure of criminal history record information to OPM.

(b) A State or locality is also eligible for an indemnification agreement if it meets the conditions of paragraph (a) of this section, but nevertheless provided criminal history record information to OPM on or before December 4, 1985.

§ 911.104 Procedures for requesting an indemnification agreement.

When requesting an indemnification agreement, the State or locality must—

(a) Certify that on December 4, 1985, the State or locality had in effect a law that prohibited or had the effect of prohibiting the disclosure of criminal history record information to OPM;

(b) Attach a copy of the law to the request for an indemnification agreement;

(c) Notify OPM, at the address below, of its eligibility for an indemnification agreement.

Office of Personnel Management, Office of Federal Investigations, P.O. Box 886, Washington, DC 20044

§ 911.105 Terms of indemnification.

The terms of the indemnification agreement must conform to the following provisions:

(a) *Eligibility*. The State or locality must certify that its law prohibits or has the effect of prohibiting the disclosure of criminal history record information to OPM for the purposes described in § 911.101(a) and that such law was in effect on December 4, 1985.

(b) *Liability*. (1) OPM must agree to indemnify and hold harmless the State or locality from any claim for damages, costs, and other monetary loss arising from the disclosure or negligent use by OPM of criminal history record information obtained from that State or locality pursuant to 5 U.S.C. 9101(b). The indemnification will include the officers, employees, and agents of the State or locality.

(2) The indemnification agreement will not extend to any act or omission prior to the transmittal of the criminal history record information to OPM.

(3) The indemnification agreement will not extend to any negligent acts on the part of the State or locality in compiling, transcribing, or failing to delete or purge any of the information transmitted.

(c) *Consent and access requirements.* By requesting the release of criminal history record information from the State or locality, OPM represents that—

(1) It has obtained the written consent of the individual under investigation to request criminal history record information about the individual from criminal justice agencies in accordance with 5 U.S.C. 9101, after advising the individual of the purposes for which the information is intended to be used by a Privacy Act of 1974 (5 U.S.C. 552a), or an equivalent, notice; and

(2) Upon request, OPM will provide the individual access to criminal history record information received from the State or locality, as required by 5 U.S.C. 9101(d).