§ 42.407 Procedures to determine compliance.

(a) Agency staff determination responsibility. All federal agency staff determinations of title VI compliance shall be made by, or be subject to the review of, the agency’s civil rights office. Where federal agency responsibility for approving applications or specific projects has been assigned to regional or area offices, the agency shall include personnel having title VI review responsibility on the staffs of such offices and such personnel shall perform the functions described in paragraphs (b) and (c) of this section.

(b) Application review. Prior to approval of federal financial assistance, the federal agency shall make written determination as to whether the applicant is in compliance with title VI (see 28 CFR 50.3(c) II A). The basis for such a determination under “the agency’s own investigation” provision (see 28 CFR 50.3(c) II A(2)), shall be submission of an assurance of compliance and a review of the data submitted by the applicant. Where a determination cannot be made from this data, the agency shall require the submission of necessary additional information and shall take other steps necessary for making the determination. Such other steps may include, for example, communicating with local government officials or minority group organizations and field reviews. Where the requested assistance is for construction, a pre-approval review should determine whether the location and design of the project will provide service on a nondiscriminatory basis and whether persons will be displaced or relocated on a nondiscriminatory basis.

(c) Post-approval review. (1) Federal agencies shall establish and maintain an effective program of post-approval compliance reviews regarding approved new applications (see 28 CFR 50.3(c) II A), applications for continuation or renewal of assistance (28 CFR 50.3(c) II B) and all other federally assisted programs. Such reviews are to include periodic submission of compliance reports by recipients to the agencies and, where appropriate, field reviews of a representative number of major recipients. In carrying out this program, agency personnel shall follow agency manuals which establish appropriate review procedures and standards of evaluation. Additionally, agencies should consider incorporating a title VI component into general program reviews and audits.

(2) The results of post-approval reviews shall be committed to writing and shall include specific findings of fact and recommendations. A determination of the compliance status of the recipient reviewed shall be made as promptly as possible.

(d) Notice to assistant attorney general. Federal agencies shall promptly notify the Assistant Attorney General of instances of probable noncompliance determined as the result of application reviews or post-approval compliance reviews.

§ 42.408 Complaint procedures.

(a) Federal agencies shall establish and publish in their guidelines procedures for the prompt processing and