

## § 1203.5

## 45 CFR Ch. XII (10–1–23 Edition)

of, or subjecting them to discrimination under, a program to which this part applies, on the ground of race, color, or national origin; or with the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of title VI of this part.

[39 FR 27322, July 26, 1974, as amended at 68 FR 51387, Aug. 26, 2003]

### § 1203.5 Assurances required.

(a) *General.* (1) An application for Federal financial assistance to which this part applies, except an application to which paragraph (d) of this section applies, and every application for Federal financial assistance to provide a facility shall, as a condition to its approval and the extension of Federal financial assistance pursuant to the application, contain or be accompanied by, assurances that the program will be conducted or the facility operated in compliance with the requirements imposed by or pursuant to this part. Every award of Federal financial assistance shall require the submission of these assurances. In the case where the Federal financial assistance is to provide or is in the form of personal property, or real property or interest therein or structures thereon, the assurances shall obligate the recipient, or, in the case of a subsequent transfer, the transferee, for the period during which the property is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits, or for as long as the recipient retains ownership or possession of the property, whichever is longer. In other cases, the assurances obligate the recipient for the period during which the Federal financial assistance is extended to the program. In the case where the assistance is sought for the construction of a facility or part of a facility, the assurances shall extend to the entire facility and to the facilities operated in connection therewith. ACTION shall specify the form of the foregoing assurances and the extent to which like assurances will be required of subgrantees, contractors and subcontractors, transferees, successors in interest, and other participants. The assurances shall include

provisions which give the United States the right to seek judicial enforcement.

(2) When Federal financial assistance is provided in the form of a transfer of real property, structures, or improvements thereon, or interest therein, from the Federal Government, the instrument effecting or recording the transfer shall contain a covenant running with the land assuring non-discrimination for the period during which the real property is used for a purpose involving the provision of similar services or benefits. When no transfer of property of interest therein from the Federal Government is involved, but property is acquired or improved with Federal financial assistance, the recipient shall agree to include a covenant in any subsequent transfer of the property. When the property is obtained from the Federal Government, the covenant may also include a condition coupled with a right to be reserved by ACTION to revert title to the property in the event of a breach of the covenant where, in the discretion of ACTION, such a condition and right of reverter is appropriate to the statute under which the real property is obtained and to the nature of the grant and the grantee. In the event a transferee of real property proposes to mortgage or otherwise encumber the real property as security for financing construction of new, or improvement of existing, facilities on property for the purposes for which the property was transferred, ACTION may agree, on request of the transferee and if necessary to accomplish the financing, and on conditions as he deems appropriate, to subordinate a right of reversion to the lien of a mortgage or other encumbrance.

(b) *Assurances from Government agencies.* In the case of an application from a department, agency, or office of a State or local government for Federal financial assistance for a specified purpose, the assurance required by this section shall extend to any other department, agency, or office of the same governmental unit if the policies of the other department, agency, or office will substantially affect the project for which Federal financial assistance is requested.

(c) *Assurance from academic and other institutions.* (1) In the case of an application for Federal financial assistance by an academic institution, the assurance required by this section extends to admission practices and to all other practices relating to the treatment of students.

(2) The assurance required by an academic institution, detention or correctional facility, or any other institution or facility, relating to the institution's practices with respect to admission or other treatment of individuals as students, patients, wards, inmates, persons subject to control, or clients of the institution or facility or to the opportunity to participate in the provision of services, disposition, treatment, or benefits to these individuals, is applicable to the entire institution or facility.

(d) *Continuing Federal financial assistance.* Every application by a State or a State agency for continuing Federal financial assistance to which this part applies (including the types of Federal financial assistance listed in Appendix A to this part) shall as a condition to its approval and the extension of Federal financial assistance pursuant to the application:

(1) Contain or be accompanied by a statement that the program is (or, in the case of a new program, will be) conducted in compliance with the requirements imposed by or pursuant to this part, and

(2) Provide or be accompanied by provision for methods of administration for the program as are found by ACTION to give reasonable guarantee that the applicant and all recipients of Federal financial assistance under the program will comply with the requirements imposed by or pursuant to this part.

(Approved by the Office of Management and Budget under control number 3001-0016, paragraph (a)(1))

[39 FR 27322, July 26, 1974, as amended at 47 FR 3553, Jan. 26, 1982; 68 FR 51387, Aug. 26, 2003]

#### § 1203.6 Compliance information.

(a) *Cooperation and assistance.* ACTION, to the fullest extent practicable, shall seek the cooperation of recipients in obtaining compliance with this part

and shall provide assistance and guidance to recipients to help them comply voluntarily with this part.

(b) *Compliance reports.* Each recipient shall keep records and submit to ACTION timely, complete, and accurate compliance reports at the times, and in the form and containing the information ACTION may determine necessary to enable it to ascertain whether the recipient has complied or is complying with this part. In the case in which a primary recipient extends Federal financial assistance to other recipients, the other recipients shall also submit compliance reports to the primary recipient as may be necessary to enable the primary recipient to carry out its obligations under this part. In general, recipients should have available for ACTION racial and ethnic data showing the extent to which members of minority groups are beneficiaries of federally assisted programs.

(c) *Access to sources of information.* Each recipient shall permit access by ACTION during normal business hours to its books, records, accounts, and other sources of information, and its facilities as may be pertinent to ascertain compliance with this part. When information required of a recipient is in the exclusive possession of an other agency, institution, or person and this agency, institution, or person fails or refuses to furnish this information, the recipient shall so certify in its report and shall set forth what efforts it has made to obtain the information.

(d) *Information to beneficiaries and participants.* Each recipient shall make available to participants, beneficiaries, and other interested persons the information regarding the provisions of this part and its applicability to the program for which the recipient received Federal financial assistance, and make this information available to them in the manner, as ACTION finds necessary, to apprise the persons of the protections against discrimination assured them by title VI and this part.

[39 FR 27322, July 26, 1974, as amended at 68 FR 51387, Aug. 26, 2003]

#### § 1203.7 Conduct of investigations.

(a) *Periodic compliance reviews.* ACTION may from time to time review the practices of recipients to determine