

## Agency for International Development

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shall submit a written request, with documentation including copies of the verdict, judgment, award or settlement proposal, as appropriate, to the General Counsel. The General Counsel may also seek the views of the Department of Justice. The General Counsel shall forward the request and the General Counsel's recommendation to the Administrator for decision.

(f) Any payment under this part either to indemnify an employee or to settle a personal damage claim shall be contingent upon the availability of appropriated funds.

(5 U.S.C. 301; 22 U.S.C. 2381(a))

[53 FR 29653, Aug. 8, 1988]

### **PART 209—NON-DISCRIMINATION IN FEDERALLY-ASSISTED PRO- GRAMS OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT— EFFECTUATION OF TITLE VI OF THE CIVIL RIGHTS ACT OF 1964**

Sec.

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APPENDIX A TO PART 209—FEDERAL FINANCIAL ASSISTANCE TO WHICH THIS REGULATION APPLIES

AUTHORITY: Sec. 602, 78 Stat. 252, and sec. 621, Foreign Assistance Act of 1961, 75 Stat. 445; 22 U.S.C. 2402.

SOURCE: 30 FR 317, Jan. 9, 1965, unless otherwise noted.

EDITORIAL NOTE: Nomenclature changes to part 209 appear at 68 FR 51361, Aug. 26, 2003.

#### **§ 209.1 Purpose.**

The purpose of this part is to effectuate the provisions of title VI of the Civil Rights Act of 1964 to the end that no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or

be otherwise subjected to discrimination under any program or activity receiving Federal financial assistance pursuant to any authority held or delegated by the Administrator of the Agency for International Development.

#### **§ 209.2 Application of this part.**

This part applies to all programs carried on within the United States by recipients of Federal financial assistance pursuant to any authority held or delegated by the Administrator of the Agency for International Development, including the types of Federal financial assistance listed in appendix A of this part. (appendix A may be revised from time to time by notice in the FEDERAL REGISTER.) It applies to money paid, property transferred, or other Federal financial assistance extended after the effective date of this regulation, even if the application for such assistance is approved prior to such effective date. This part does not apply to (a) any Federal financial assistance by way of insurance or guaranty contracts, (b) money paid, property transferred or other assistance extended before the effective date of this part, (c) any assistance to any individual who is the ultimate beneficiary, (d) any employment practice under any such program of any employer, employment agency, or labor organization, or (e) any procurement of goods or services, including the procurement of training. This part does not bar selection and treatment reasonably related to the foreign assistance objective or such other authorized purpose as the Federal assistance may have. It does not bar selections which are limited to particular groups where the purpose of the Federal financial assistance calls for such a limitation nor does not bar special treatment including special courses of training, orientation or counseling consistent with such purpose.

#### **§ 209.3 Definitions.**

For purposes of this part—

(a) The term *Act* means the Civil Rights Act of 1964 (78 Stat. 241).

(b) The term *Administrator* means the Administrator of the Agency for International Development or any person

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specifically designated by him to perform any function provided for under this part.

(c) The term *applicant* means one who submits an application, request or plan required to be approved by the Administrator, or by a primary recipient as a condition to eligibility for Federal financial assistance, and the term “application” means such application, request, or plan.

(d) The term *facility* includes all or any portion of structures, equipment, or other real or personal property or interests therein, and the provision of facilities includes the construction, expansion, renovation, remodeling, alteration or acquisition of facilities.

(e) The term *Federal financial assistance* includes (1) grants and loans of Federal funds, (2) the grant or donation of Federal property and interests in property, (3) the detail of Federal personnel, (4) the sale and lease of, and the permission to use (on other than a casual or transient basis) Federal property or any interest in such property without consideration, or at a nominal consideration, or at a consideration which is reduced for the purpose of assisting the recipient, or in recognition of the public interest to be served by such sale or lease to the recipient, and (5) any Federal agreement, arrangement, or other contract which has as one of its purposes the provision of assistance.

(f) The term *primary recipient* means any recipient which is authorized or required to extend Federal financial assistance to another recipient.

(g) The terms *program or activity and program* mean all of the operations of any entity described in paragraphs (g)(1) through (4) of this section, any part of which is extended Federal financial assistance:

(1)(i) A department, agency, special purpose district, or other instrumentality of a State or of a local government; or

(ii) The entity of such State or local government that distributes such assistance and each such department or agency (and each other State or local government entity) to which the assistance is extended, in the case of assistance to a State or local government;

(2)(i) A college, university, or other postsecondary institution, or a public system of higher education; or

(ii) A local educational agency (as defined in 20 U.S.C. 7801), system of vocational education, or other school system;

(3)(i) An entire corporation, partnership, or other private organization, or an entire sole proprietorship—

(A) If assistance is extended to such corporation, partnership, private organization, or sole proprietorship as a whole; or

(B) Which is principally engaged in the business of providing education, health care, housing, social services, or parks and recreation; or

(ii) The entire plant or other comparable, geographically separate facility to which Federal financial assistance is extended, in the case of any other corporation, partnership, private organization, or sole proprietorship; or

(4) Any other entity which is established by two or more of the entities described in paragraph (g)(1), (2), or (3) of this section.

(h) The term *recipient* means any State, political subdivision of any State, or instrumentality of any State or political subdivision, any public or private agency, institution, or organization, or any other entity, or any individual in any State, to whom Federal financial assistance is extended, directly or through another recipient, including any successor, assign, or transferee thereof, but such term does not include any ultimate beneficiary or a sovereign foreign government.

(i) The term *United States* means the States of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Wake Island, the Canal Zone, and the territories and possessions of the United States, and the term “State” means any one of the foregoing.

[30 FR 317, Jan. 9, 1965, as amended at 68 FR 51361, Aug. 26, 2003]

**§ 209.4 Discrimination prohibited.**

(a) *General.* No person in the United States shall, on the grounds of race, color or national origin, be excluded from participation in, be denied the

benefits of, or be subjected to discrimination under, any program or activity receiving Federal financial assistance from the Agency for International Development.

(b) *Specific discriminatory actions prohibited.* (1) A recipient to which this regulation applies may not, directly or through contractual or other arrangements, on the ground of race, color, or national origin:

(i) Deny an individual any service, financial aid, or other benefit provided under the program;

(ii) Provide any service, financial aid, or other benefit to an individual which is different, or is provided in a different manner, from that provided to others under the program;

(iii) Subject an individual to segregation or separate treatment in any matter related to his receipt of any service, financial aid, or other benefit under the program;

(iv) Restrict an individual in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service, financial aid, or other benefit under the program;

(v) Treat an individual differently from others in determining whether he satisfies any admission, enrollment, quota, eligibility, membership or other requirement or condition which individuals must meet in order to be provided any service, financial aid, or other benefit provided under the program;

(vi) Deny an individual an opportunity to participate in the program through the provision of services or otherwise or afford him an opportunity to do so which is different from that afforded others under the program; or

(vii) Deny an individual an opportunity to participate in a program as an employee where a primary objective of the Federal financial assistance is to provide employment.

(2) A recipient, in determining the types of services, financial aid, or other benefits, or facilities which will be provided under any such program, or the class of individuals to whom, or the situations in which, such services, financial aid, other benefits or facilities will be provided under any such program or the class of individuals to be afforded an opportunity to participate in any

such program, may not, directly or through contractual or other arrangements, utilize criteria or methods of administration which have the effect of subjecting individuals to discrimination because of race, color, or national origin, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program as respects individuals of a particular race, color, or national origin.

(3) In determining the site or location of facilities, a recipient or applicant may not make selections with the purpose or effect of excluding individuals from, denying them the benefits of, or subjecting them to discrimination under any program to which this regulation applies, on the grounds of race, color or national origin; or with the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the Act or this regulation.

(4) As used in this section the services, financial aid, or other benefit provided under a program receiving Federal financial assistance shall be deemed to include any service, financial aid, or other benefit provided in or through a facility provided with the aid of Federal financial assistance.

(5) The enumeration of specific forms of prohibited discrimination in this paragraph does not limit the generality of the prohibition in paragraph (a) of this section.

(6) This regulation does not prohibit the consideration of race, color, or national origin if the purpose and effect are to remove or overcome the consequences of practices or impediments which have restricted the availability, or participation in, the program or activity receiving Federal financial assistance, on the grounds of race, color or national origin. Where previous discriminatory practice or usage tends, on the grounds of race, color, or national origin, to exclude individuals from participation in, to deny them the benefits of, or to subject them to discrimination under any program or activity to which this Regulation applies, the applicant or recipient has an obligation to take reasonable action to remove or overcome the consequences of the prior

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discriminatory practice or usage, and to accomplish the purposes of the Act.

[30 FR 317, Jan. 9, 1965, as amended at 38 FR 17948, July 5, 1973]

### § 209.5 Assurance required.

(a) *General.* (1) Every application for Federal financial assistance to which this part applies, except an application to which paragraph (b) 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 any Federal financial assistance pursuant to the application, contain or be accompanied by an assurance that the program will be conducted or the facility operated in compliance with all requirements imposed by or pursuant to this part. In the case of an application for Federal financial assistance to provide real property or structures thereon, the assurance shall obligate the recipient, or, in the case of a subsequent transfer, the transferee, for the period during which the real property or structures are used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits. In the case of personal property the assurance shall obligate the recipient for the period during which he retains ownership or possession of the property. In all other cases the assurance shall obligate the recipient for the period during which Federal financial assistance is extended pursuant to the application. The head of the bureau or office administering the Federal financial assistance 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. Any such assurance shall include provisions which give the United States a right to seek its judicial enforcement.

(2) In the case of real property, structures or improvements thereon, or interests therein, which was acquired with Federal financial assistance, or in the case where Federal financial assistance is provided in the form of a transfer of real property or interest therein from the Federal Government, the in-

strument 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 for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits. Where no transfer of property is involved, but property is improved with Federal financial assistance, the recipient shall agree to include such a covenant in any subsequent transfer of such property. Where the property is obtained from the Federal Government, such covenant may also include a condition coupled with a right to be reserved by the Agency to revert title to the property in the event of a breach of the covenant where, in the discretion of the responsible Agency official, 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 such event if a transferee of real property proposed to mortgage or otherwise encumber the real property as security for financing construction of new or improvement of existing facilities on such property for the purposes for which the property was transferred, the Administrator may agree, upon request of the transferee and if necessary to accomplish such financing, and upon such conditions as he deems appropriate, to forbear the exercise of such right to revert title for so long as the lien of such mortgage or other encumbrance remains effective.

(3) Transfers of surplus property are subject to regulations issued by the Administrator of General Services (41 CFR 101-6.2).

(b) *Assurances from institutions.* (1) In the case of any application for Federal financial assistance to an institution of higher education (including assistance for construction, for research, for a special training project, for student assistance, or for any other purpose), the assurance required by this section shall extend to admission practices and to all other practices relating to the treatment of students.

(2) The assurance required with respect to an institution of higher education or any other institution, insofar

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as the assurance relates to the institution's practices with respect to admission or other treatment of individuals as students or clients of the institution or to the opportunity to participate in the provision of services or other benefits to such individuals, shall be applicable to the entire institution.

[30 FR 317, Jan. 9, 1965, as amended at 38 FR 17948, July 5, 1973; 68 FR 51361, Aug. 26, 2003]

### § 209.6 Compliance information.

(a) *Cooperation and assistance.* The Administrator shall to the fullest extent practicable 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 such records and submit to the Administrator timely, complete and accurate compliance reports at such times, and in such form and containing such information, as the Administrator may determine to be necessary to enable him 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 any other recipient, such other recipient shall also submit such compliance reports to the primary recipient as may be necessary to enable the primary recipient to carry out its obligations under this part.

(c) *Access to sources of information.* Each recipient shall permit access by the Administrator during normal business hours to such of its books, records, accounts, and other sources of information, and its facilities as may be pertinent to ascertain compliance with this part. Where any information required of a recipient is in the exclusive possession of any other agency, institution or person and this agency, institution or person shall fail or refuse 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 such information regarding the provisions of

this part and its applicability to the program for which the recipient receives Federal financial assistance, and make such information available to them in such manner, as the Administrator finds necessary to apprise such persons of the protections against discrimination assured them by the Act and this part.

### § 209.7 Conduct of investigations.

(a) *Periodic compliance reviews.* The Administrator shall from time to time review the practices of recipients to determine whether they are complying with this part.

(b) *Complaints.* Any person who believes himself or any specific class of individuals to be subjected to discrimination prohibited by this part may by himself or by a representative file with the Administrator a written complaint. A complaint must be filed not later than 90 days from the date of the alleged discrimination, unless the time for filing is extended by the Administrator.

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

(d) *Resolution of matters.* (1) If an investigation pursuant to paragraph (c) of this section indicates a failure to comply with this part, the Administrator will so inform the recipient and the matter will be resolved by informal means whenever possible. If it has been determined that the matter cannot be resolved by informal means, action will be taken as provided for in § 209.8.

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

(e) *Intimidatory or retaliatory acts prohibited.* No recipient or other person shall intimidate, threaten, coerce, or

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discriminate against any individual for the purpose of interfering with any right or privilege secured by section 601 of the Act or this part, or because he has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this part. The identity of complainant shall be kept confidential except to the extent necessary to carry out the purposes of this part, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder.

### § 209.8 Procedure for effecting compliance.

(a) *General.* If there appears to be a failure or threatened failure to comply with this part, and if the noncompliance or threatened noncompliance cannot be corrected by informal means, compliance with this part may be effected by the suspension or termination of or refusal to grant or to continue Federal financial assistance, or by any other means authorized by law. Such other means may include, but are not limited to, (1) a reference to the Department of Justice with a recommendation that appropriate proceedings be brought to enforce any rights of the United States under any law of the United States (including other titles of the Act), or any assurance or other contractual undertaking, and (2) any applicable proceeding under State or local law.

(b) *Noncompliance with § 209.4.* If an applicant fails or refuses to furnish an assurance required under § 209.4 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. The Agency for International Development shall not be required to provide assistance in such a case during the pendency of the administrative proceedings under such paragraph, except that the Agency shall continue assistance during the pendency of such proceedings where such assistance is due and payable pursuant to an application therefor approved prior to the effective date of this part.

(c) *Termination of or refusal to grant or to continue Federal financial assistance.*

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No order suspending, terminating, or refusing to grant or to continue Federal financial assistance shall become effective until (1) the head of the bureau or office administering the Federal financial assistance has advised the applicant or recipient of his failure to comply and has determined that compliance cannot be secured by 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 part, (3) the action has been approved by the Administrator pursuant to paragraph (e) of § 209.10 and (4) the expiration of 30 days after the Administrator 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 such action. Any action to suspend or terminate or to 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 such finding has been made and shall be limited in its effect to the particular program, or part thereof, in which such noncompliance has been so found.

(d) *Other means authorized by law.* No action to effect compliance by any other means authorized by law shall be taken until (1) the responsible Agency official 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 such notice to the recipient or other person. During this period of at least 10 days additional efforts shall be made to persuade the recipient or other person to comply with this part and to take such corrective action as may be appropriate.

[38 FR 17494, July 5, 1973]

### § 209.9 Hearings.

(a) *Opportunity for hearing.* Whenever an opportunity for a hearing is required by § 209.8(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 such notice within which the applicant or recipient may request of the Administrator 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 place and time. The time and place so fixed shall be reasonable and shall be 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 section or to appear at a hearing for which a date has been set shall be deemed to be a waiver of the right to a hearing under section 602 of the Act and §209.8(c) of this part and consent to the making of a decision on the basis of such information as is available.

(b) *Time and place of hearing.* Hearings shall be held at the offices of the Agency for International Development in Washington, DC, at a time fixed by the Administrator unless he determines that the convenience of the applicant or recipient or of the Agency requires that another place be selected. Hearings shall be held before the Administrator or before a hearing examiner designated in accordance with 5 U.S.C. 3105 and 3344 (section 11 of the Administrative Procedure Act).

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

(d) *Procedures, evidence, and record.* (1) The hearing, decision, and any administrative review thereof shall be conducted in conformity with 5 U.S.C. 554-557 (sections 5-8 of the Administrative Procedure Act), and in accordance with such 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 the Agency for International Development and the applicant or recipient shall be entitled to introduce all 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 shall not apply to hearings conducted pursuant to this part, but rules or principles designed to assure production of the most credible evidence available and to subject testimony to test by cross-examination shall be applied where reasonably necessary by the officer conducting the hearing. The hearing officer may exclude irrelevant, immaterial, or unduly repetitious evidence. All documents and other evidence offered or taken for the record shall be open to examination by the parties and opportunity shall be given to refute facts and arguments advanced on either side of the issues. A transcript shall be made of the oral evidence except to the extent the substance thereof is stipulated for the record. All decisions shall be based upon the hearing record and written findings shall be made.

(e) *Consolidated or joint hearings.* In cases in which the same or related facts are asserted to constitute non-compliance with this part with respect to two or more Federal statutes, authorities, or other means by which Federal financial assistance is extended and to which this part applies or noncompliance with this part and the regulations of one or more other Federal departments or agencies issued under title VI of the Act, the Administrator may, by agreements with such other department or agencies, where applicable, provide for the conduct of consolidated or joint hearings, and for the application to such hearings of rules of procedure not inconsistent with this part. Final decisions in such cases, insofar as this part is concerned,

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shall be made in accordance with § 209.10.

[30 FR 317, Jan. 9, 1965, as amended at 38 FR 17949, July 5, 1973]

### § 209.10 Decisions and notices.

(a) *Decision by a hearing examiner.* If the hearing is held by a hearing examiner such hearing examiner shall either make an initial decision, if so authorized, or certify the entire record including his recommended findings and proposed decision to the Administrator for a final decision, and a copy of such initial decision or certification shall be mailed to the applicant or recipient and the complainant. Where the initial decision is made by the hearing examiner the applicant or recipient may within 30 days of the mailing of such notice of initial decision file with the Administrator his exceptions to the initial decision, with his reasons therefor. In the absence of exceptions, the Administrator may on his own motion within 45 days after the initial decision serve on the applicant or recipient a notice that he will review the decision. Upon the filing of such exceptions or of such notice of review the Administrator shall review the initial decision and issue his own decision thereon including the reasons therefor. The decision of the Administrator shall be mailed promptly to the applicant or recipient and the complainant, if any. In the absence of either exceptions or a notice of review the initial decision shall constitute the final decision of the Administrator.

(b) *Decisions on record or review by the Administrator.* Wherever a record is certified to the Administrator for decision or he reviews the decision of a hearing examiner pursuant to paragraph (a) of this section, or whenever the Administrator conducts the hearing, the applicant or recipient shall be given reasonable opportunity to file with him briefs or other written statements of its contentions, and a copy of the final decision of the Administrator shall be given in writing to the applicant or recipient and the complainant, if any.

(c) *Decisions on record where a hearing is waived.* Wherever a hearing is waived pursuant to § 209.9(a) a decision shall be made by the Administrator on the record and a copy of such decision shall

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be given in writing to the applicant or recipient, and to the complainant, if any.

(d) *Rulings required.* Each decision of a hearing officer or the Administrator shall set forth his ruling on each finding, conclusion, or exception presented, and shall identify the requirement or requirements imposed by or pursuant to this part with which it is found that the applicant or recipient has failed to comply.

(e) *Content of orders.* The final decision may provide for suspension or termination of, or refusal to grant or continue Federal financial assistance, in whole or in part, to which this regulation applies and may contain such terms, conditions, and other provisions as are consistent with and will effectuate the purposes of the Act and this part, including provisions designed to assure that no Federal financial assistance to which this regulation applies will thereafter be extended to the applicant or recipient determined by such decision to be in default in its performance of an assurance given by it pursuant to this part, or to have otherwise failed to comply with this part, unless and until it corrects its noncompliance and satisfies the Administrator that it will fully comply with this part.

(f) *Post termination proceedings.* (1) An applicant or recipient adversely affected by an order issued under paragraph (e) of this section shall be restored to full eligibility to receive Federal financial assistance if it satisfies the terms and conditions of that order for such eligibility or if it brings itself into compliance with this regulation and provides reasonable assurance that it will fully comply with this regulation.

(2) Any applicant or recipient adversely affected by an order entered pursuant to paragraph (e) of this section may at any time request the responsible Agency official to restore fully its eligibility to receive Federal financial assistance. Any such request shall be supported by information showing that the applicant or recipient has met the requirements of paragraph (f)(1) of this section. If the responsible Agency official determines that those requirements have been satisfied, he shall restore such eligibility.

(3) If the responsible Agency official denies any such request, the applicant or recipient may submit a request for a hearing in writing, specifying why it believes such official to have been in error. It shall thereupon be given an expeditious hearing, with a decision on the record, in accordance with rules of procedure issued by the responsible Agency official. The applicant or recipient will be restored to such eligibility if it proves at such a hearing that it satisfied the requirements of paragraph (f)(1) of this section. While proceedings under this paragraph are pending, the sanctions imposed by the order issued under paragraph (e) of this section shall remain in effect.

[30 FR 317, Jan. 9, 1965, as amended at 38 FR 17949, July 5, 1973]

#### § 209.11 Judicial review.

Action taken pursuant to section 602 of the Act is subject to judicial review as provided in section 603 of the Act.

#### § 209.12 Effect on other regulations; supervision and coordination.

(a) All regulations, orders or like directions heretofore issued by any officer of the Agency for International Development which impose requirements designed to prohibit any discrimination against individuals on the ground of race, color, or national origin under any program to which this part applies, and which authorize the suspension or termination of or refusal to grant or to continue Federal financial assistance to any applicant for or recipient of such assistance for failure to comply with such requirements, are hereby superseded to the extent that such discrimination is prohibited by this part, except that nothing in this part shall be deemed to relieve any person of any obligation assumed or imposed under any such superseded regulation, order, instruction, or like direction prior to the effective date of this part. Nothing in this part, however, shall be deemed to supersede any of the following (including future amendment thereof): (1) Executive Order 11246, and regulations issued thereunder, or (2) any other regulation or instruction insofar as it prohibits discrimination on the grounds of race, color, or national origin in any program or situation to which this part

is inapplicable, or prohibits discrimination on any other ground.

(b) *Supervision and coordination.* The Administrator may from time to time assign to officials of other departments or agencies of the government (with the consent of such department or agency) responsibilities in connection with the effectuation of the purposes of title VI of the Act and this part (other than responsibility for final decision as provided in §209.10), including the achievement of effective coordination and maximum uniformity within the Agency for International Development and within the Executive branch of the Government in the application of title VI and this part to similar programs and in similar situations. Any action taken, determination made, or requirement imposed by an official of another Department or Agency acting pursuant to an assignment of responsibility under this subsection shall have the same effect as though such action had been taken by the responsible official of this Agency.

[30 FR 317, Jan. 9, 1965, as amended at 38 FR 17949, July 5, 1973]

#### § 209.13 Delegation of authority.

Responsibility for administration and enforcement of this part, with respect to Federal financial assistance administered by another Federal department or agency pursuant to delegation, transfer interagency service agreement, or other arrangement is vested in the head of such department or agency, or his delegate, and subject to such delegations or redelegations as he may make or authorize.

#### APPENDIX A TO PART 209—FEDERAL FINANCIAL ASSISTANCE TO WHICH THIS REGULATION APPLIES

1. Grants to organizations and institutions to carry on programs of technical cooperation and development in the United States to promote the economic development of less developed friendly countries. (Section 211, Foreign Assistance Act, 22 U.S.C. 2171.)
2. Grants to organizations and institutions to carry on programs of technical cooperation and development in the United States to promote the economic development of the less developed friendly countries of Latin America. (Section 251, Foreign Assistance Act, 22 U.S.C. 2211.)

3. Grants to organizations and institutions to carry out programs in the United States of research into, and evaluation of, economic development in less developed foreign countries. (Section 241, Foreign Assistance Act, 22 U.S.C. 2193.)

[30 FR 317, Jan. 9, 1965, as amended at 38 FR 17949, July 5, 1973]

**PART 211—TRANSFER OF FOOD COMMODITIES FOR FOOD USE IN DISASTER RELIEF, ECONOMIC DEVELOPMENT AND OTHER ASSISTANCE**

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APPENDIX I TO PART 211—OPERATIONAL PLAN

AUTHORITY: 7 U.S.C. 1726a(c).

SOURCE: 57 FR 19766, May 7, 1992, unless otherwise noted.

**§ 211.1 General purpose and scope; legislation.**

(a) *Legislation.* The Agricultural Trade Development and Assistance Act of 1954, as amended (Pub. L. 480), was further revised by the Agricultural Development and Trade Act of 1990, Public Law 101-624, 104 Stat. 3632-65 (1990). The legislation implemented by the regulation in this part (as of the date of issuance of this part) includes sections of Public Law 480, as follows: Sections 1, 2, 3, 201, 202, 203, 207, 401, 402, 403, 404, 406, 407, 408, 409, 413 and 414. Pursuant to title II of Public Law 480, A.I.D. may transfer agricultural commodities to address famine or other urgent or extraordinary relief requirements; combat malnutrition, espe-

cially in children and mothers; carry out activities that attempt to alleviate the causes of hunger, mortality and morbidity; promote economic and community development; promote sound environmental practices; and carry out feeding programs. Agricultural commodities may be provided to meet emergency food needs through foreign governments and private or public organizations, including intergovernmental organizations. Section 202(a) of Public Law 480 authorizes A.I.D., notwithstanding any other provision of law, to provide agricultural commodities for emergency food needs in such manner and on such terms and conditions as A.I.D. determines appropriate to respond to the emergency. Agricultural commodities also may be provided for non-emergency assistance through private voluntary organizations or cooperatives which are, to the extent practicable, registered with A.I.D., and through intergovernmental organizations.

(b) *Terms and conditions.* This part 211, also known as A.I.D. Regulation 11, provides the standard terms and conditions applicable to title II programs, except those conducted by agencies of the United Nations and the World Food Program. The Operational Plan submitted by a cooperating sponsor may propose, and justify, the waiver of any section of this Regulation that is not required by statute. If A.I.D. approves a waiver, the specific section or subsection waived will be identified in the Transfer Authorization signed by the cooperating sponsor and A.I.D. or in an attachment, prepared by A.I.D., that is appended to the Operational Plan.

**§ 211.2 Definitions.**

(a) *A.I.D.* means the Agency for International Development or any successor agency, including, when applicable, each USAID. *USAID* means an office of A.I.D. located in a foreign country. *AID/W* means the office of A.I.D. located in Washington, DC.

(b) *Annual Estimate of Requirements or AER* (Form A.I.D. 1550-3, Exhibit E, A.I.D. Handbook 9) is a statistical update of the Operational Plan which is signed by the cooperating sponsor requesting commodities under title II estimating the quantities required. When