

Component	Program or activity	Authority
Internal Revenue Service	Low Income Taxpayer Clinic Grant Program.	Internal Revenue Service Restructuring and Reform Act of 1998 sec. 3601, 26 U.S.C. 7526.
United States Mint	U.S. Commemorative Coin Programs	Specific acts of Congress that authorize United States commemorative coin and medal programs provide assistance. <i>See, e.g.,</i> the Louis Braille Bicentennial—Braille Literacy Commemorative Coin Act, Public Law 109–247 (2006); the Boy Scouts of America Centennial Commemorative Coin Act, Public Law 110–363 (2008); the American Veterans Disabled for Life Commemorative Coin Act, Public Law 110–277 (2008); and the National September 11 Memorial & Museum Commemorative Medal Act of 2010, Public Law 111–221 (2010).
Departmental Offices, Treasury Executive Office for Asset Forfeiture.	Equitable sharing program (transfer of forfeited property to state and local law enforcement agencies).	18 U.S.C. 981(e)(2); 21 U.S.C. 881(e)(1)(A); 31 U.S.C. 9703.
Various Treasury Bureaus and Offices (including the Internal Revenue Service).	Unreimbursed detail of Federal Employees through the Intergovernmental Personnel Act.	5 U.S.C. 3371 through 3376.
Departmental Offices, Office of the Fiscal Assistant Secretary.	Grants under the RESTORE Act's Direct Component and Centers of Excellence program and supplemental compliance responsibilities for its Comprehensive Plan and Spill Impact Components.	Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012, Public Law 112–141.

PART 23—NONDISCRIMINATION ON THE BASIS OF AGE IN PROGRAMS AND ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE FROM THE DEPARTMENT OF THE TREASURY

Subpart A—General

Sec.

- 23.1 What is the purpose of the Age Discrimination Act of 1975?
- 23.2 What is the purpose of Treasury's age discrimination regulations?
- 23.3 To what programs does this part apply?
- 23.4 Definitions of terms used in this part.

Subpart B—Standards for Determining Age Discrimination

- 23.11 Rules against age discrimination.
- 23.12 Definitions of “normal operation” and “statutory objective.”
- 23.13 Exceptions to the rules against age discrimination: Normal operation or statutory objective of any program or activity.
- 23.14 Exceptions to the rules against age discrimination: Reasonable factors other than age.
- 23.15 Burden of proof.
- 23.16 Affirmative action by recipient.
- 23.17 Special benefits for children and the elderly.

- 23.18 Age distinctions contained in Treasury regulations.

Subpart C—Duties of Treasury Recipients

- 23.31 General responsibilities.
- 23.32 Notice to subrecipients and beneficiaries.
- 23.33 Assurance of compliance and recipient assessment of age distinctions.
- 23.34 Information requirements.

Subpart D—Investigations, Conciliation, and Enforcement Procedures

- 23.41 Compliance reviews.
- 23.42 Complaints.
- 23.43 Mediation.
- 23.44 Investigation.
- 23.45 Prohibition against intimidation or retaliation.
- 23.46 Compliance procedures.
- 23.47 Hearings, decisions, post-termination proceedings.
- 23.48 Remedial action by recipient.
- 23.49 Alternate funds disbursement procedure.
- 23.50 Exhaustion of administrative remedies.

AUTHORITY: Age Discrimination Act of 1975, as amended, 42 U.S.C. 6101 *et seq.* (45 CFR part 90)

SOURCE: 82 FR 47108, Oct. 11, 2017, unless otherwise noted.

Subpart A—General

§ 23.1 What is the purpose of the Age Discrimination Act of 1975?

The Age Discrimination Act of 1975, as amended, is designed to prohibit discrimination on the basis of age in programs or activities receiving Federal financial assistance. The Act also permits federally assisted programs and activities, and recipients of Federal funds, to continue to use certain age distinctions and factors other than age that meet the requirements of the Act and these regulations.

§ 23.2 What is the purpose of Treasury's age discrimination regulations?

The purpose of these regulations is to set out Treasury's policies and procedures under the Age Discrimination Act of 1975 and the general age discrimination regulations at 45 CFR part 90. The Act and the general regulations prohibit discrimination on the basis of age in programs or activities receiving Federal financial assistance. The Act and the general regulations permit federally assisted programs and activities, and recipients of Federal funds, to continue to use age distinctions and factors other than age that meet the requirements of the Act and its implementing regulations. These regulations do not apply to actions arising under the Age Discrimination in Employment Act of 1967, Public Law 90-202, 29 U.S.C. 621 through 634 (ADEA), and do not in any way affect the Equal Employment Opportunity Commission's regulations implementing the ADEA at 29 CFR 1625, 1626, and 1627.

§ 23.3 To what programs does this part apply?

(a) This part applies to any program or activity receiving Federal financial assistance from Treasury.

(b) The regulations in this part do not apply to:

(1) An age distinction contained in that part of a Federal, State, or local statute or ordinance adopted by an elected, general purpose legislative body that:

(i) Provides any benefits or assistance to persons based on age; or

(ii) Establishes criteria for participation in age-related terms; or

(iii) Describes intended beneficiaries to target groups in age-related terms; or

(2) Any employment practice of any employer, employment agency, labor organization, or any labor-management joint apprenticeship training program.

§ 23.4 Definition of terms used in this part.

As used in these regulations, the term:

Act means the Age Discrimination Act of 1975, as amended, 42 U.S.C. 6101-6107.

Action means any act, activity, policy, rule, standard, or method of administration; or the use of any policy, rule, standard, or method of administration.

ADEA means the Age Discrimination in Employment Act of 1967, which forbids employment discrimination against anyone 40 years of age or older.

Age means how old a person is, or the number of years from the date of a person's birth.

Age distinction means any action using age or an age-related term.

Age-related term means a word or words that necessarily imply a particular age or range of ages (for example, "children," "adult," "older persons," but not "student").

Federal financial assistance means any grant, entitlement, loan, cooperative agreement, contract (other than a procurement contract or a contract of insurance or guaranty), or any other arrangement by which Treasury provides assistance in the form of:

(1) Funds; or
(2) Services of Federal personnel; or
(3) Real and personal property or any interest in or use of property, including:

(i) Transfers or leases of property for less than fair market value or for reduced consideration; and

(ii) Proceeds from a subsequent transfer or lease of property if the federal share of its fair market value is not returned to the Federal Government.

Program or activity means all of the operations of any entity described in

§ 23.11

paragraphs (1) through (4) of this definition, 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) That 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 that is established by two or more of the entities described in paragraph (1), (2), or (3) of this definition.

Recipient means any State or its political subdivision, any instrumentality of a State or its political subdivision, any public or private agency, institution, organization, or other entity, or any person to which Federal financial assistance is extended, directly or through another recipient. Recipient includes any successor, assignee, or transferee, but excludes the ultimate beneficiary of the assistance.

Secretary means the Secretary of the Treasury, or his or her designee.

Subrecipient means any of the entities in the definition of *recipient* to which a recipient extends or passes on Federal

31 CFR Subtitle A (7–1–25 Edition)

financial assistance. A subrecipient is generally regarded as a recipient of Federal financial assistance and has all the duties of a recipient in these regulations.

Treasury means the United States Department of the Treasury.

United States means the fifty states, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Wake Island, the Trust Territory of the Pacific Islands, the Northern Marianas, and the territories and possessions of the United States.

Subpart B—Standards for Determining Age Discrimination

§ 23.11 Rules against age discrimination.

The rules stated in this section are limited by the exceptions contained in §§ 23.13 and 23.14.

(a) *General rule.* No person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity receiving Federal financial assistance.

(b) *Specific rules.* A recipient may not, in any program or activity receiving Federal financial assistance, directly or through contractual licensing, or other arrangements, use age distinctions or take any other actions that have the effect, on the basis of age, of:

(1) Excluding individuals from, denying them the benefits of, or subjecting them to discrimination under, a program or activity receiving Federal financial assistance; or

(2) Denying or limiting individuals in their opportunity to participate in any program or activity receiving Federal financial assistance.

(c) *Non-exhaustive list.* The specific forms of age discrimination listed in paragraph (b) of this section do not necessarily constitute a complete list.

§ 23.12 Definitions of “normal operation” and “statutory objective.”

For purposes of §§ 23.13 and 23.14, the terms “normal operation” and “statutory objective” shall have the following meaning:

(a) *Normal operation* means the operation of a program or activity without

Office of the Secretary of the Treasury

§ 23.32

significant changes that would impair its ability to meet its objectives.

(b) *Statutory objective* means any purpose of a program or activity expressly stated in any Federal statute, State statute, or local statute or ordinance adopted by an elected, general purpose legislative body.

§ 23.13 Exceptions to the rules against age discrimination: Normal operation or statutory objective of any program or activity.

A recipient is permitted to take an action, otherwise prohibited by § 23.11, if the action reasonably takes into account age as a factor necessary to the normal operation or the achievement of any statutory objective of a program or activity. An action reasonably takes into account age as a factor necessary to the normal operation or the achievement of any statutory objective of a program or activity, if:

(a) Age is used as a measure or approximation of one or more other characteristics; and

(b) The other characteristic(s) must be measured or approximated for the normal operation of the program or activity to continue, or to achieve any statutory objective of the program or activity; and

(c) The other characteristic(s) can be reasonably measured or approximated by the use of age; and

(d) The other characteristic(s) are impractical to measure directly on an individual basis.

§ 23.14 Exceptions to the rules against age discrimination: Reasonable factors other than age.

A recipient is permitted to take an action otherwise prohibited by § 23.11 that is based on a factor other than age, even though that action may have a disproportionate effect on persons of different ages. An action may be based on a factor other than age only if the factor bears a direct and substantial relationship to the normal operation of the program or activity or to the achievement of a statutory objective.

§ 23.15 Burden of proof.

The burden of proving that an age distinction or other action falls within the exceptions outlined in §§ 23.13 and

23.14 is on the recipient of Federal financial assistance.

§ 23.16 Affirmative action by recipient.

Even in the absence of a finding of discrimination, a recipient may take affirmative action to overcome the effects of conditions that resulted in limited participation in the recipient's program or activity on the basis of age.

§ 23.17 Special benefits for children and the elderly.

If a recipient's operation of a program or activity provides special benefits to the elderly or to children, such use of age distinctions shall be presumed to be necessary to the normal operation of the program or activity, notwithstanding the provisions of § 23.13.

§ 23.18 Age distinctions contained in Treasury regulations.

Any age distinctions contained in a rule or regulation issued by Treasury shall be presumed to be necessary to the achievement of a statutory objective of the program or activity to which the rule or regulation applies, notwithstanding the provisions of § 23.13.

Subpart C—Duties of Treasury Recipients

§ 23.31 General responsibilities.

Each Treasury recipient has primary responsibility to ensure that its programs and activities are in compliance with the Act and these regulations, and shall take steps to eliminate violations of the Act. A recipient also has responsibility to maintain records, provide information, and afford Treasury access to its records to the extent Treasury finds necessary to determine whether the recipient is in compliance with the Act and these regulations.

§ 23.32 Notice to subrecipients and beneficiaries.

(a) Where a recipient passes on Federal financial assistance from Treasury to subrecipients, the recipient shall provide the subrecipients written notice of their obligations under the Act and these regulations.

§ 23.33

(b) Each recipient shall make necessary information about the Act and these regulations available to its program beneficiaries to inform them about the protections against discrimination provided by the Act and these regulations.

§ 23.33 Assurance of compliance and recipient assessment of age distinctions.

(a) *Written assurance.* Each recipient of Federal financial assistance from Treasury shall sign a written assurance as specified by Treasury that it will comply with the Act and these regulations.

(b) *Recipient assessment of age distinctions.* (1) As part of a compliance review under § 23.41 or a complaint investigation under § 23.44, Treasury may require a recipient employing the equivalent of 15 or more employees to complete a written self-evaluation, in a manner specified by the responsible Department official, of any age distinction imposed in its program or activity receiving Federal financial assistance from Treasury to assess the recipient's compliance with the Act.

(2) Whenever an assessment indicates a violation of the Act or the Treasury regulations, the recipient shall take corrective action.

§ 23.34 Information requirements.

Each recipient shall:

(a) Keep records in a form and containing information that Treasury determines may be necessary to ascertain whether the recipient is complying with the Act and these regulations.

(b) Provide to Treasury, upon request, information and reports that Treasury determines are necessary to ascertain whether the recipient is complying with the Act and these regulations.

(c) Permit reasonable access by Treasury to the books, records, accounts, and other recipient facilities and sources of information to the extent Treasury determines is necessary to ascertain whether the recipient is complying with the Act and these regulations.

31 CFR Subtitle A (7-1-25 Edition)

Subpart D—Investigation, Conciliation, and Enforcement Procedures

§ 23.41 Compliance reviews.

(a) Treasury may conduct compliance reviews and pre-award reviews or use other similar procedures that will permit it to investigate and correct violations of the Act and these regulations. Treasury may conduct these reviews even in the absence of a complaint against a recipient. The reviews may be as comprehensive as necessary to determine whether a violation of the Act or these regulations has occurred.

(b) If a compliance review or pre-award review indicates a violation of the Act or these regulations, Treasury will attempt to achieve voluntary compliance. If voluntary compliance cannot be achieved, Treasury will arrange for enforcement as described in § 23.46.

§ 23.42 Complaints.

(a) Any person, individually or as a member of a class or on behalf of others, may file a complaint with Treasury, alleging discrimination prohibited by the Act or these regulations based on an action occurring on or after July 1, 1979. A complainant shall file a complaint within 180 days from the date the complainant first had knowledge of the alleged act of discrimination. However, for good cause shown, Treasury may extend this time limit.

(b) Treasury will consider the date a complaint is filed to be the date upon which the complaint is sufficient to be processed.

(c) Treasury will attempt to facilitate the filing of complaints wherever possible, including taking the following measures:

(1) Accepting as a sufficient complaint any written statement that identifies the parties involved and the date the complainant first had knowledge of the alleged violation, describes generally the action or practice complained of, and is signed by the complainant.

(2) Freely permitting a complainant to add information to the complaint to meet the requirements of a sufficient complaint.

Office of the Secretary of the Treasury

§ 23.44

(3) Notifying the complainant and the recipient of their rights and obligations under the complaint procedure, including the right to have a representative at all stages of the complaint resolution process.

(4) Notifying the complainant and the recipient (or their representatives) of their right to contact Treasury for information and assistance regarding the complaint resolution process.

(d) Treasury will notify the complainant when the complaint falls outside the jurisdiction of these regulations, and will state the reason(s) why it is outside the jurisdiction of these regulations.

§ 23.43 Mediation.

(a) Treasury will promptly refer to a mediation agency designated by the Secretary of the Department of Health and Human Services (HHS) all sufficient complaints that:

(1) Fall within the jurisdiction of the Act and these regulations, unless the age distinction complained of is clearly within an exception; and,

(2) Contain all information necessary for further processing.

(b) Both the complainant and the recipient shall participate in the mediation process to the extent necessary to reach an agreement or make an informed judgment that an agreement is not possible.

(c) If the complainant and the recipient reach an agreement, the mediator shall prepare a written statement of the agreement and have the complainant and the recipient sign it. The mediator shall send a copy of the agreement to Treasury. Treasury will take no further action on the complaint unless the complainant or the recipient fails to comply with the agreement.

(d) The mediator shall protect the confidentiality of all information obtained in the course of the mediation process. No mediator shall testify in any adjudicative proceeding, produce any document, or otherwise disclose any information obtained in the course of the mediation process without prior approval of the head of the mediation agency.

(e)(1) The mediation will proceed for a maximum of 60 days after a com-

plaint is filed with Treasury. Mediation ends if:

(i) 60 days elapse from the time the complaint is filed; or

(ii) Prior to the end of that 60-day period, an agreement is reached; or

(iii) Prior to the end of that 60-day period, the mediator determines that an agreement cannot be reached.

(2) This 60-day period may be extended by the mediator, with the concurrence of Treasury, for not more than 30 days if the mediator determines that agreement likely will be reached during such extended period.

(f) The mediator shall notify Treasury when mediation is not successful and Treasury will continue processing the complaint.

§ 23.44 Investigation.

(a) *Informal investigation.* (1) Treasury will investigate complaints that are unresolved after mediation or are reopened because of a violation of a mediation agreement.

(2) As part of the initial investigation, Treasury will use informal fact finding methods, including joint or separate discussions with the complainant and recipient, to establish the facts and, if possible, settle the complaint on terms that are mutually agreeable to the parties. Treasury may seek the assistance of any involved State agency.

(3) Any settlement agreement will be put in writing and the parties will sign it.

(4) The settlement shall not affect the operation of any other enforcement effort of Treasury, including compliance reviews and investigation of other complaints that may involve the recipient.

(5) The settlement is not a finding of discrimination against a recipient.

(b) *Formal investigation.* If Treasury cannot resolve the complaint through informal investigation, it will begin to develop formal findings through further investigation of the complaint. If the investigation indicates a violation of these regulations, Treasury will attempt to obtain voluntary compliance. If Treasury cannot obtain voluntary compliance, it will begin enforcement as described in § 23.46

§ 23.45

§ 23.45 Prohibition against intimidation or retaliation.

A recipient may not engage in acts of intimidation or retaliation against any person who:

(a) Attempts to assert a right protected by the Act or these regulations; or

(b) Cooperates in any mediation, investigation, hearing, or other part of Treasury's investigation, conciliation, and enforcement process.

§ 23.46 Compliance procedures.

(a) Treasury may enforce the Act and these regulations through:

(1) Termination of a recipient's Federal financial assistance from Treasury under the program or activity involved where the recipient has violated the Act or these regulations. The determination of the recipient's violation may be made only after a recipient has had an opportunity for a hearing on the record before an administrative law judge.

(2) Any other means authorized by law, including but not limited to:

(i) Referral to the Department of Justice for proceedings to enforce any rights of the United States or obligations of the recipient created by the Act or these regulations;

(ii) Referral to the Equal Employment Opportunity Commission, Department of Labor, the Department of Health and Human Services, or the Department of Education, as applicable; and

(iii) Use of any requirement of or referral to any Federal, State, or local government agency that will have the effect of correcting a violation of the Act or these regulations.

(b) Treasury will limit any termination under paragraph (a)(1) of this section to the particular recipient and particular program or activity or part of such program or activity Treasury finds in violation of these regulations. Treasury will not base any part of a termination on a finding with respect to any program or activity of the recipient that does not receive Federal financial assistance from Treasury.

(c) Treasury will take no action under paragraph (a) of this section until:

31 CFR Subtitle A (7-1-25 Edition)

(1) The Secretary has advised the recipient of its failure to comply with the Act and these regulations and has determined that voluntary compliance cannot be obtained.

(2) Thirty days have elapsed after the Secretary has sent a written report of the circumstances and grounds of the action to the committees of Congress having legislative jurisdiction over the Federal program or activity involved. The Secretary will file a report whenever any action is taken under paragraph (a) of this section.

(d) Treasury also may defer granting new Federal financial assistance to a recipient when a hearing under paragraph (a)(1) of this section is initiated.

(1) New Federal financial assistance from Treasury includes all assistance for which Treasury requires an application or approval, including renewal or continuation of existing activities, or authorization of new activities, during the deferral period. New Federal financial assistance from Treasury does not include increases in funding as a result of changed computation of formula awards or assistance approved prior to the beginning of a hearing under paragraph (a)(1) of this section.

(2) Treasury will not begin a deferral until the recipient has received a notice of an opportunity for a hearing under paragraph (a)(1) of this section. Treasury will not continue a deferral for more than 60 days unless a hearing has begun within that time or the time for beginning the hearing has been extended by mutual consent of the recipient and the Secretary. Treasury will not continue a deferral for more than 30 days after the close of the hearing, unless the hearing results in a finding against the recipient.

(3) Treasury will limit any deferral to the particular recipient and particular program or activity or part of such program or activity Treasury finds in violation of these regulations. Treasury will not base any part of a deferral on a finding with respect to any program or activity of the recipient that does not, and would not in connection with the new funds, receive Federal financial assistance from Treasury.

§ 23.47 Hearings, decisions, post-termination proceedings.

Treasury procedural provisions for hearings, decisions, and post-termination proceedings applicable to Title VI of the Civil Rights Act of 1964 and its implementing regulations within Title 31 of the CFR shall apply to Treasury enforcement of these regulations.

§ 23.48 Remedial action by recipient.

Where Treasury finds a recipient has discriminated on the basis of age in violation of the Act or this part, the recipient shall take any remedial action that Treasury may require to overcome the effects of the discrimination.

§ 23.49 Alternate funds disbursement procedure.

(a) When Treasury withholds funds from a recipient under these regulations, the Secretary may disburse the withheld funds directly to an alternate recipient, where appropriate: Any public or non-profit private organization or agency, or State or political subdivision of the State.

(b) The Secretary will require any alternate recipient to demonstrate:

(1) The ability to comply with these regulations; and

(2) The ability to achieve the goals of the Federal statute authorizing the Federal financial assistance.

§ 23.50 Exhaustion of administrative remedies.

(a) A complainant may file a civil action following the exhaustion of administrative remedies under the Act. Administrative remedies are exhausted if:

(1) 180 days have elapsed since the complainant filed the complaint and Treasury has made no finding with regard to the complainant; or

(2) Treasury issues any finding in favor of the recipient.

(b) If Treasury fails to make a finding within 180 days or issues a finding in favor of the recipient, Treasury shall:

(1) Promptly advise the complainant of this fact; and

(2) Advise the complainant of his or her right to bring a civil action for injunctive relief; and

(3) Inform the complainant:

(i) That the complainant may bring a civil action only in a United States district court for the district in which the recipient is found or transacts business;

(ii) That a complainant prevailing in a civil action has the right to be awarded the costs of the action, including reasonable attorney's fee, but that the complainant must demand these costs in the complaint.

(iii) That before commencing the action the complainant shall give 30 days notice by registered mail to the Secretary, the Secretary of HHS, the Attorney General of the United States, and the recipient.

(iv) That the notice must state: The alleged violation of the Act; the relief requested; the court in which the complainant is bringing the action; and whether or not attorney's fees are demanded in the event the complainant prevails; and

(v) That the complainant may not bring an action if the same alleged violation of the Act by the same recipient is the subject of a pending action in any court of the United States.

PART 25—PREPAYMENT OF FOREIGN MILITARY SALES LOANS MADE BY THE DEFENSE SECURITY ASSISTANCE AGENCY AND FOREIGN MILITARY SALES LOANS MADE BY THE FEDERAL FINANCING BANK AND GUARANTEED BY THE DEFENSE SECURITY ASSISTANCE AGENCY

Subpart A—General

Sec.

25.100 Definitions.

25.101 OMB control number.

Subpart B—Qualifications for Prepayment

25.200 General rules.

Subpart C—Procedures

25.300 Application procedure.

25.301 Approval procedure.

25.302 Application withdrawal; effect of approval.

25.303 Closing procedure.