

§ 15.4 Assurances required.

(a) *General.* (1) Every application for Federal financial assistance to carry out a program to which these regulations apply, except a program 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 applicant's program or activity will be conducted or the facility operated in compliance with all requirements imposed by or pursuant to the Act and the regulations in this part. 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 assurance shall obligate the recipient, or, in the case of a subsequent transfer, the transferee, for the period during which the property is used for the purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services and benefits or for as long as the recipient retains ownership or possession of the property, whichever is longer. 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 Agency shall specify the form of the foregoing assurances and the extent to which like assurances will be required of subgrantees, contractors, and subcontractors, 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 through 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 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 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. Where no transfer of property is involved, but property is improved through 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 Agency concerned, such a condition and right of reverter is appropriate to the purposes of the Federal financial assistance 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 proposes 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 Agency may agree, upon request of the transferee and if necessary to accomplish such financing, and upon such conditions as it 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) Every application by a State or a State Agency, including a State Extension Service, but not including an application for aid to an institution of higher education, to carry out its program or activity involving continuing Federal financial assistance to which the regulations in this part apply shall as a condition to its approval and the extension of any 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 all requirements imposed by or pursuant to this part, and (2) provide or be accompanied

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by provision for such methods of administration for the program as are found by the Agency to give reasonable assurance that the applicant and all recipients of Federal financial assistance under such program will comply with all requirements imposed by or pursuant to the regulations in this part: *Provided*, That where no application is required prior to payment, the State or State Agency, including a State Extension Service, shall, as a condition to the extension of any Federal financial assistance, submit an assurance complying with the requirements of paragraphs (b)(1) and (2) of this section.

(c) *Assurances from institutions.* The assurance required with respect to an institution of higher education, or any other institution, insofar as the assurance relates to the institution's practices with respect to admission or other treatment of individuals or to the opportunity to participate in the provision of services or other benefits to such individuals, shall be applicable to the entire institution unless the applicant establishes, to the satisfaction of the Agency, that the institution's practices in designated parts or programs of the institution will in no way affect its practices in the program of the institution for which Federal financial assistance is sought, or the beneficiaries of or participants in such program. If in any such case the assistance sought is for the construction of a facility or part of a facility, the assurance shall in any event extend to the entire facility and to facilities operated in connection therewith.

(d) *Recipients other than applicants.* Each recipient not required to submit an application for Federal financial assistance, shall furnish, as a condition to the extension of any such assistance, an assurance or statement as is required of applicants under paragraphs (a), (b)(1) and (2) of this section.

(e) *Elementary and secondary schools.* The requirements of paragraphs (a), (b), or (d) of this section with respect to any elementary or secondary school or school system shall be deemed to be satisfied if such school or school system (1) is subject to a final order of a court of the United States for the desegregation of such school or school system, and provides an assurance that

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it will comply with such order, including any future modification of such order, or (2) submits a plan for the desegregation of such school or school system which the responsible official of the Department of Health, Education, and Welfare determines is adequate to accomplish the purposes of the Act and this part, and provides reasonable assurance that it will carry out such plan; in any case of continuing Federal financial assistance the said responsible official of the Department of Health, Education, and Welfare may reserve the right to redetermine, after such period as may be specified by him, the adequacy of the plan to accomplish the purposes of the Act and this part within the earliest practical time. In any case in which a final order of a court of the United States for the desegregation of such school or school system is entered after submission of such a plan, such plan shall be revised to conform to such final order, including any future modification of such order.

[29 FR 16274, Dec. 4, 1964, as amended at 32 FR 3967, Mar. 11, 1967; 35 FR 18383, Dec. 3, 1970; 38 FR 17926, July 5, 1973]

§ 15.5 Compliance.

(a) *Cooperation and assistance.* Each Agency shall to the fullest extent practicable seek the cooperation of recipients in obtaining compliance with the regulations and this part and shall provide assistance and guidance to recipients to help them comply voluntarily with the regulations in this part. As a normal part of the administration of programs covered by the regulations in this part, designated personnel will in their program reviews and other activities or as specifically directed by the Agency, review the activities of recipients to determine whether they are complying with the regulations in this part. Reports by such personnel shall include statements regarding compliance and instances, if any, of non-compliance. In the event of non-compliance, the Agency shall seek to secure voluntary compliance by all appropriate means.

(b) *Compliance reports.* Each recipient shall keep such records and submit to the Agency timely, complete and accurate compliance reports at such times,