

§ 1206.2-5

45 CFR Ch. XII (10-1-05 Edition)

section, including, but not limited to, situations in which the recipient has ineffectively managed Corporation resources or substantially failed to comply with Corporation policy and overall objectives under a contract or grant agreement with the Corporation, the recipient shall be informed in the notice, of the opportunity to submit written material and to meet informally with a Corporation official to show cause why its application for refunding should not be rejected or reduced. If the recipient requests an informal meeting, such meeting shall be held on a date specified by the Corporation. However, the meeting may not, without the consent of the recipient, be scheduled sooner than 14 days, nor more than 30 days, after the Corporation has mailed the notice to the recipient. If the recipient requests an informal meeting, the meeting shall be scheduled by the Corporation as soon as possible after receipt of the request. The official who shall conduct this meeting shall be a Corporation official who is authorized to finally approve the refunding in question, or his designee.

(d) If the notice of tentative decision is based upon a specific charge of failure to comply with the terms and conditions of the grant or contract, alleging wrongdoing on the part of the recipient, the notice shall offer the recipient an opportunity for an informal hearing before a mutually agreed-upon impartial hearing officer. The authority of such hearing officer shall be limited to conducting the hearing and offering recommendations. The Corporation will retain all authority to make the final determination as to whether the application should be finally rejected or reduced. If the recipient requests an informal hearing, such hearing shall be held at a date specified by the Corporation. However, such hearing may not, without the consent of the recipient, be scheduled sooner than 14 days nor more than 30 days after the Corporation mails the notice to the recipient.

(e) In the selection of a hearing official and the location of either an informal meeting or hearing, the Corporation, while mindful of considerations of the recipient, will take care to insure

that costs are kept to a minimum. The informal meeting or hearing shall be held in the city or county in which the recipient is located, in the appropriate Service Center or Corporation State Office, or another appropriate location. Within the limits stated in the preceding sentence, the decision as to where the meeting shall be held will be made by the Corporation, after weighing the convenience factors of the recipient. For the convenience of the recipient, the Corporation will pay the reasonable travel expenses for up to two representatives of the recipient, if requested.

(f) The recipient shall be informed of the final Corporation decision on refunding and the basis for the decision by the deciding official.

(g) If the recipient's budget period expires prior to the final decision by the deciding official, the recipient's authority to continue program operations shall be extended until such decision is made and communicated to the recipient. If a National Senior Service Corps volunteer's or AmeriCorps*VISTA member's term of service expires after receipt by a sponsor of a tentative decision not to refund a project, the period of service of the volunteer or member may be similarly extended. No volunteers or members may be reenrolled for a full 12-month term, or new volunteers or members enrolled for a period of service while a tentative decision not to refund is pending. If program operations are so extended, the Corporation and the recipient shall provide, subject to the availability of funds, operating funds at the same levels as in the previous budget period to continue program operations.

§ 1206.2-5 Right to counsel.

In all formal or informal proceedings under this subpart, the recipient and the Corporation shall have the right to be represented by counsel or other authorized representatives, at their own expense.