

§ 1250.103-4 Illustrative applications.

(a) In training grant services discrimination is forbidden in the selection or eligibility of individuals to be trained and in their treatment by the grantee during their training. In any case where selection is made from a predetermined group, such as the students in an institution, the group must have been selected without discrimination.

(b) In a research or training grant to a university for activities to be conducted in a graduate school, discrimination in the admission and treatment of students in the graduate school is prohibited and the prohibition extends to the entire university.

(c) Discrimination in the treatment of students or other trainees includes the prohibition of discrimination among the students or trainees in the availability or use of any academic, dormitory, eating, recreational, or other facilities of the grantee or other recipient.

(d) In a research or training grant, discrimination is prohibited with respect to the availability of any educational activity and any provision of medical or other services and any financial aid to individuals incident to the grant.

(e) Upon transfers of real or personal property for research or educational uses, discrimination is forbidden to the same extent as in the case of grants for the construction of facilities or the provision of equipment for like purposes.

(f) In some situations even though past discriminatory practices have been abandoned, the consequences of such practices continue to impede the full availability of a benefit. If the efforts required of the applicant or recipient under § 1250.105 to provide information as to the availability of the program or activity, and the rights of beneficiaries under this regulation, have failed to overcome these consequences, it will become necessary for such applicant or recipient to take additional steps to make the benefits fully available to racial and nationality groups previously subjected to discrimination. This action might take the form, for example, of special arrangements for obtaining referrals or

making selections which will insure that groups previously subjected to discrimination are adequately served.

(g) Even though an applicant or recipient has never used discriminatory policies, the services and benefits of the program or activity it administers may not in fact be equally available to some racial or nationality groups. In such circumstances an applicant or recipient may properly give special consideration to race, color, or national origin to make the benefits of its program more widely available to such groups, not then being adequately served. For example, where a university is not adequately serving members of a particular racial or nationality group, it may establish special recruitment policies to make its program better known and more readily available to such group, and take other steps to provide that group with more adequate service.

[30 FR 301, Jan. 9, 1965, as amended at 38 FR 17937, July 5, 1973; 68 FR 51350, Aug. 26, 2003]

§ 1250.103-5 Special benefits.

An individual shall not be deemed subjected to discrimination by reason of his exclusion from the benefits limited by Federal law to individuals of a particular race, color, or national origin different from his.

[30 FR 301, Jan. 9, 1965, as amended at 68 FR 51350, Aug. 26, 2003]

§ 1250.103-6 Medical emergencies.

Notwithstanding the provisions of §§ 1250.103 to 1250.103-5, a recipient of Federal financial assistance shall not be deemed to have failed to comply with § 1250.103-1, if immediate provision of a service or other benefit to an individual is necessary to prevent his death or serious impairment of his health, and such service or other benefit cannot be provided except by or through a medical institution which refuses or fails to comply with § 1250.103-1.

§ 1250.104 Assurances.

(a) *General requirement.* Every application for Federal financial assistance to which this part 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, be accompanied by, or identify and make reference to, an assurance that the program will be conducted or the facility operated in compliance with all requirements imposed by or pursuant to this part. If the assurance is not made a part of the application, the application shall identify the assurance which is applicable to the application. One assurance shall suffice for all applications of an applicant if the assurance complies with the conditions made applicable by this part to each such application for Federal financial assistance. Every assurance shall include provisions which give the United States a right to seek its judicial enforcement.

(b) *Duration of assurances.* The period of time to be covered by the assurances required under this § 1250.104 shall be as follows:

(1) *Real property.* In the case of an application for Federal financial assistance for providing 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.

(2) *Personal property.* In the case of an application for Federal financial assistance for providing personal property, the assurance shall obligate the recipient for the period during which he retains ownership or possession of the property.

(3) *Other kinds of Federal financial assistance.* In the case of an application for any other kind of Federal financial assistance, the assurance shall obligate the recipient for the period during which Federal financial assistance is extended pursuant to the application.

(c) *Assurances for research, training, or educational programs.* (1) In the case of application by an institution of higher education or any other organization for Federal financial assistance for a program or activity which involves participation by students, fellows or trainees, including but not limited to assist-

ance for research, training, or the provision of facilities, the assurance required by this § 1250.104 shall extend to admission practices and to all other practices relating to the treatment of students or other participants.

(2) The assurances from such an applicant shall be applicable to the entire organization of the applicant.

(d) *Assurances for construction of facilities.* In the case of assistance for the construction of a facility, or part thereof, the assurance shall extend to the entire facility and to facilities operated in connection therewith. In grants to assist in the construction of facilities for the provision of research, training, or educational services, assurances will be required that services will be provided without discrimination, to the same extent that discrimination would be forbidden as a condition of grants for the support of such services. Thus, as a condition of grants for the construction of academic, research or other facilities at institutions of higher education, assurances will be required that there will be no discrimination in the admission or treatment of students. Also, see paragraph (c) of this section for the requirement as to the applicability of the assurance to the applicant's organization.

(e) *Instrument effecting or recording transfers of real property.* The instrument effecting or recording the transfer, shall contain a covenant running with the land assuring nondiscrimination 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 NASA to revert title to the property in the event of a breach of the covenant where, in the discretion of the responsible NASA 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.

(f) *Assurances for transfer of surplus real property.* Transfers of surplus property are subject to regulations issued by the Administrator of General Services (41 CFR 101-6.2).

(g) *Form of assurances.* The responsible NASA officials shall specify the form of assurances required by this §1250.104 and the extent to which like assurances will be required by subgrantees, contractors and subcontractors, transferees, successors in interest, and other participants in the program.

(h) *Requests for proposals.* Any request for proposals issued by NASA which relates to covered financial assistance listed in appendix A shall have set forth therein or have attached thereto the assurance prescribed in accordance with paragraph (g) of this section, and shall require that the proposer either include the assurance as a part of his signed proposal or identify and refer to an assurance already signed and submitted by the proposer.

[30 FR 301, Jan. 9, 1965, as amended at 38 FR 17937, July 5, 1973; 68 FR 51350, Aug. 26, 2003]

§ 1250.105 Compliance information.

(a) *Cooperation and assistance.* Each responsible NASA official 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 Principal Compliance Officer or his designee timely, complete and accurate compliance reports at such times, and in such form and containing such information, as the Principal Compliance Officer or his designee 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 pri-

mary recipient to carry out its obligations under this part.

(c) *Access to sources of information.* Each recipient shall permit access by the Principal Compliance Officer or his designee 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 that 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 Principal Compliance Officer finds necessary to apprise such persons of the protection against discrimination assured them by the Act and this part.

[30 FR 301, Jan. 9, 1965, as amended at 68 FR 51350, Aug. 26, 2003]

§ 1250.106 Conduct of investigations.

(a) *Periodic compliance reviews.* The responsible NASA official or his designee 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 Principal Compliance Officer or his designee 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 Principal Compliance Officer or his designee.

(c) *Investigations.* The Principal Compliance Officer or his designee will make a prompt investigation whenever