

§ 34.30

to submit such periodic reports as the Director deems necessary to determine compliance with the nondiscrimination and equal opportunity provisions of JTPA or this part.

(6) At the discretion of the Director, grant applicants may be required to submit such particularized information as is necessary to determine whether or not the grant applicant, if funded, would be able to comply with the nondiscrimination and equal opportunity provisions of JTPA or this part.

(7) Service Providers. A service provider's responsibility for collecting and maintaining the information required pursuant to this section may be assumed by the Governor, SDA grant recipient or Substate grantee, as provided in the State's Methods of Administration.

(b) *Access to sources of information.* (1) Each grant applicant and recipient shall permit access by the Director during normal business hours to its premises and to its employees and participants, to the extent that such individuals are on the premises during the course of the investigation, for the purpose of conducting complaint investigations, compliance reviews, monitoring activities associated with a State's development and implementation of a Methods of Administration, and inspecting and copying such books, records, accounts and other materials as may be pertinent to ascertain compliance with and ensure enforcement of the nondiscrimination and equal opportunity provisions of JTPA or this part.

(2) Asserted considerations of privacy or confidentiality shall not be a basis for withholding information from the Directorate and shall not bar the Directorate from evaluating or seeking to enforce compliance with the nondiscrimination and equal opportunity provisions of JTPA and this part. Information obtained pursuant to the requirements of this part shall be used only in connection with compliance and enforcement activities pertinent to the nondiscrimination and equal opportunity provisions of JTPA and this part. Whenever any information required of a grant applicant or recipient is in the exclusive possession of another agency or institution which, or person who, fails or refuses to furnish

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such information, the grant applicant or recipient shall provide certification to the Directorate of such refusal and the efforts it has made to obtain the information.

(c) *Record retention requirements.* (1) Each recipient shall maintain for a period of not less than three years from the close of the applicable program year, applicant, eligible applicant, participant, terminatee, employee and applicant for employment records; and such other records as are required under this part or by the Director. (2) Records regarding complaints and actions taken thereunder shall be maintained for a period of not less than three years from the date of resolution of the complaint.

(d) *Confidentiality.* The identity of any person who furnishes information relating to, or assisting in, an investigation or a compliance review shall be kept confidential to the extent possible, consistent with a fair determination of the issues. A person whose identity it is necessary to disclose shall be protected from retaliation (see §34.8).

(e) Where designation of persons by race or ethnicity is required, the guidelines of the Office of Management and Budget shall be used.

Subpart C—Governor's Responsibilities To Implement the Nondiscrimination and Equal Opportunity Requirements of JTPA

§ 34.30 Application.

This subpart applies to State Programs as defined in §34.2. However, the provisions of §34.32 (b) and (c) do not apply to State Employment Security Agencies (SESAs), because the Governor's liability for any noncompliance on the part of a SESA cannot be waived.

§ 34.31 Recordkeeping.

The Governor shall ensure that recipients collect and maintain records in a manner consistent with the provisions of §34.24 and any procedures prescribed by the Director pursuant to §34.24(a)(1). The Governor shall further ensure that recipients are able to provide data and reports in the manner prescribed by the Director.