

**§ 636.9**

**20 CFR Ch. V (4-1-08 Edition)**

(2) In the event that the Grant Officer makes a finding of no violation the initial determination shall:

- (i) Be in writing;
- (ii) State the bases of the determination (factual findings and conclusions); and
- (iii) Give notice of the opportunity to present additional information within 30 days of receipt of the initial determination.

(3) The initial determination shall be mailed by certified mail return receipt requested to the parties and interested parties.

(c) *Allowability of certain questioned costs.* In any case in which the Grant Officer determines that the recipient meets the requirements of section 164(e)(2)(A)-(D) of the Act, the Grant Officer may waive the imposition of sanctions (sec. 164(e)(3)). It is the responsibility of the grantee to request such waiver by the Grant Officer and to submit the evidence to be used to make the finding.

(d) *Informal resolution.* Except as provided by section 164(f) of the Act, the Grant Officer shall not revoke a grant, in whole or in part, nor institute corrective action or sanctions against a grantee without first providing the grantee with an opportunity to informally resolve those matters contained in the Grant Officer's initial determination. If all matters are informally resolved, the Grant Officer shall notify the parties in writing of the nature of the resolution, which shall constitute final agency action, not subject to appeal, and shall close the file.

(e) *Final determination.* (1) If all the parties and the Grant Officer cannot informally resolve any matter pursuant to paragraph (d) of this section, the Grant Officer shall provide each party with a final written determination by certified mail, return receipt requested. In the case of audits, the final determination shall be issued not later than 180 days after the receipt by the Grant Officer of the final approved audit report.

(2) The final determination shall:

- (i) Indicate that efforts to informally resolve matters contained in the initial determination pursuant to paragraph (a) of this section have been unsuccessful;

- (ii) List those matters upon which the parties continue to disagree;

- (iii) List any modifications to the factual findings and conclusions set in the initial determination;

- (iv) List any sanctions, and required corrective actions, including any other alteration or modification of the plan, grant, agreement or program ordered by the Grant Officer; and

- (v) Inform the parties of their opportunity to request a hearing pursuant to these regulations.

(3) If it is determined in the final notice that the complaint does not allege and/or the evidence does not indicate that there is reason to believe there may have been a violation of the Act, regulations, grants or other agreements under the Act, the Grant Officer shall dismiss the complaint without an offer of a hearing. Such dismissal shall constitute final agency action.

**§ 636.9 Opportunity for informal review.**

(a) Parties to a complaint under § 636.10 may choose to waive their rights to an administrative hearing before the Office of Administrative Law Judges (OALJ) by choosing to transfer the settlement of their dispute to an individual acceptable to all parties for the purpose of conducting an informal review of the stipulated facts and rendering a decision in accordance with applicable law. A written decision will be issued within 60 days after the matter is submitted for informal review.

(b) The waiver of the right to request a hearing before the OALJ will automatically be revoked if a settlement has not been reached within the 60 days provided in paragraph (a) of this section.

(c) The decision rendered under this informal review process shall be treated as a final decision of an Administrative Law Judge pursuant to section 166(b) of the Act.

**§ 636.10 Hearings before the Office of Administrative Law Judges.**

(a) *Jurisdiction.* (1) Within 21 days of receipt of the Grant Officer's final determination, except for determinations under § 636.8(e)(3) dismissing the complaint without an opportunity to request a hearing, or on the expiration of