

provided under a program receiving financial assistance shall be deemed to include any service, financial aid, or other benefit provided in or through a facility provided with the aid of the financial assistance.

(5) The enumeration of specific forms of prohibited discrimination in this paragraph does not limit the generality of the prohibition in paragraph (a) of this section.

(6) This regulation does not prohibit the consideration of race, color, or national origin if the purpose and effect are to remove or overcome the consequences of practices or impediments which have restricted the availability of, or participation in, the program or activity receiving Federal financial assistance, on the grounds of race, color, or national origin. Where previous discriminatory practice or usage tends, on the grounds of race, color, or national origin, to exclude individuals from participation in, to deny them the benefits of, or to subject them to discrimination under any program or activity to which this regulation applies, the recipient has an obligation to take reasonable action to remove or overcome the consequences of the prior discriminatory practice or usage, and to accomplish the purposes of the Act.

[30 FR 311, Jan. 9, 1965, as amended at 38 FR 17944, July 5, 1973. Redesignated at 44 FR 30682, May 29, 1979. Redesignated and amended at 49 FR 20481, May 15, 1984; 68 FR 51355, Aug. 26, 2003]

§ 1302.5 Assurances required.

(a) TVA contributes financial assistance only under agreements which contain a provision which specifically requires compliance with this part in programs or activities receiving Federal financial assistance from TVA. If the financial assistance involves the furnishing of real property, the agreement shall obligate the recipient, or in the case of a subsequent transfer, the transferee, for the period during which the real property is used for a purpose for which the financial assistance is extended or for another purpose involving the provision of similar services or benefits. Where the financial assistance involves the furnishing of personal property, the agreement shall obligate the recipient for the period dur-

ing which the recipient retains ownership or possession of the property. In all other cases the agreement shall obligate the recipient for the period during which financial assistance is extended pursuant to the agreement. TVA shall specify the form of the foregoing agreements, and the extent to which an agreement shall be applicable to subgrantees, contractors and sub-contractors, transferees, successors in interest, and other participants.

(b) In the case of real property, structures or improvements thereon, or interests therein, which is acquired with Federal financial assistance, or in the case where Federal financial assistance is provided in the form of a transfer by TVA of real property or interest therein, the instrument effecting or recording the transfer of title 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 by transfer from TVA, the covenant against discrimination may also include a condition coupled with a right to be reserved by TVA to revert title to the property in the event of a breach of the covenant where, in the discretion of TVA, 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. 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, TVA 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

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mortgage or other encumbrance remains effective.

[30 FR 311, Jan. 9, 1965, as amended at 38 FR 17944, July 5, 1973. Redesignated at 44 FR 30682, May 29, 1979. Redesignated and amended at 49 FR 20481, May 15, 1984; 68 FR 51355, Aug. 26, 2003]

§ 1302.6 Compliance information.

(a) *Cooperation and assistance.* TVA 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 TVA timely, complete and accurate compliance reports at such times, and in such form and containing such information, as TVA may determine to be necessary to enable it 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 primary recipient to carry out its obligations under this part.

(c) *Access to sources of information.* Each recipient shall permit access by TVA 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 this 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 financial assistance, and make such information available to them in such manner as TVA finds necessary to

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apprise such persons of the protections against discrimination assured them by the Act and this part.

(Information collection requirements appearing in §1302.6 were approved by the Office of Management and Budget under control number 3316-0077)

[30 FR 311, Jan. 9, 1965. Redesignated at 44 FR 30682, May 29, 1979. Redesignated at 49 FR 20481, May 15, 1984, and amended at 51 FR 9649, Mar. 20, 1986; 68 FR 51355, Aug. 26, 2003]

§ 1302.7 Compliance reviews and conduct of investigations.

(a) *Preaward compliance reviews.* (1) Prior to approval of financial assistance, TVA will make a determination as to whether the proposed recipient is in compliance with Title VI and the requirements of this part with respect to a program or activity for which it is seeking Federal financial assistance from TVA. The basis for such a determination shall be submission of an assurance of compliance and a review of the data and information submitted by the proposed recipient, any relevant compliance review reports on file with TVA, and any other information available to TVA. Where a determination cannot be made from this data, TVA will require the submission of necessary additional information and may take additional steps. Such additional steps may include, for example, communicating with local government officials, protected class organizations, and onsite reviews.

(2) No proposed recipient shall be approved unless it is determined that the proposed recipient is in compliance with Title VI and this part or has agreed in writing to take necessary specified steps within a stated period of time to come into compliance with Title VI and this part. Such an agreement must be approved by TVA and made a part of the conditions of the agreement under which the financial assistance is provided.

(3)(i) Where TVA finds that a proposed recipient may not be in compliance with Title VI and this part, TVA shall notify the proposed recipient and the Assistant Attorney General for Civil Rights in writing of:

(A) The preliminary findings setting forth the alleged noncompliance;