

contract where a purpose is to give financial assistance to the contracting party; and similar transactions. This part does not apply to:

(a) Any financial assistance by way of insurance or guaranty contracts,

(b) Money paid, property transferred, or other assistance extended under any such program before the effective date of this part,

(c) Any assistance to any individual who is the ultimate beneficiary under any such program, or

(d) Any employment practice, under any such program, of any employer, employment agency, or labor organization, unless such practice exists in a program where a primary objective of the TVA financial assistance is to provide employment; or where such practice subjects persons to discrimination in the provision of services and benefits on the grounds of race, color, or national origin in a program or activity receiving Federal financial assistance from TVA.

The fact that a program is not listed in Appendix A shall not mean, if Title VI of the Act is otherwise applicable, that such program is not covered. Other programs may be added to this list by notice published in the FEDERAL REGISTER.

[30 FR 311, Jan. 9, 1965. Redesignated at 44 FR 30682, May 29, 1979, and amended at 49 FR 20481, May 15, 1984]

### § 1302.3 Definitions.

(a) *TVA* as used in these regulations, refers to the Tennessee Valley Authority, as created by the Tennessee Valley Authority Act of 1933, 48 Stat. 58, as amended, 16 U.S.C. 831-831dd. See also paragraph (e) of § 1302.6.

(b) *Recipient* refers to any person, group, or other entity which either receives financial assistance from TVA, or which has been denied such assistance.

(c) *Assistant Attorney General* refers to the Assistant Attorney General, Civil Rights Division, Department of Justice.

(d) *Title VI* refers to Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, et seq.

[49 FR 20481, May 15, 1984; 49 FR 47383, Dec. 4, 1984]

### § 1302.4 Discrimination prohibited.

(a) *General*. No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving Federal financial assistance from TVA. For the purposes of this part, the following definitions of race and ethnic group apply:

(1) *Black, not of Hispanic origin*. A person having origins in any of the black racial groups of Africa;

(2) *Hispanic*. A person of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race;

(3) *Asian or Pacific Islander*. A person having origin in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands. This area includes, for example, China, Japan, Korea, the Philippine Islands, and Samoa;

(4) *American Indian or Alaskan Native*. A person having origins in any of the original peoples of North America, and who maintains cultural identification through tribal affiliation or community recognition;

(5) *White, not of Hispanic origin*. A person having origins in any of the original peoples of Europe, North Africa, or the Middle East.

Additional subcategories based on national origin or primary language spoken may be used where appropriate.

(b) *Specific discriminatory actions prohibited*. (1) A recipient under any program or activity receiving Federal financial assistance from TVA may not, directly or through contractual or other arrangements, on ground of race, color, or national origin:

(i) Deny an individual any service, financial aid, or other benefit provided under the program;

(ii) Provide any service, financial aid or other benefit to an individual which is different, or is provided in a different manner, from that provided to others under the program;

(iii) Subject an individual to segregation or separate treatment in any manner related to that individual's receipt of any service, financial aid, or other benefit under the program;

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(iv) Restrict an individual in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service, financial aid, or other benefit under the program;

(v) Treat an individual differently from others in determining whether any admission, enrollment, quota, eligibility, membership, or other requirement or condition which individuals must meet in order to be provided any service, financial aid, or other benefit provided under the program has been satisfied.

(vi) Deny an individual an opportunity to participate in the program through the provision of services or otherwise or afford that individual an opportunity to do so which is different from that afforded others under the program.

(2) A recipient, in determining the types of services, financial aid, or other benefits, or facilities which will be provided under any such program, or the class of individuals to whom, or the situations in which, such services, financial aid, other benefits, or facilities will be provided under any such program, or the class of individuals to be afforded an opportunity to participate in any such program, may not, directly or through contractual or other arrangements, utilize criteria or methods of administration which have the effect of subjecting individuals to discrimination because of their race, color, or national origin, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program as respect individuals of a particular race, color, or national origin.

(3) In determining the site or location of facilities, a recipient may not make selections with the purpose or effect of excluding individuals from, denying them the benefits of, or subjecting them to discrimination under any program to which this regulation applies, on the grounds of race, color, or national origin; or with the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the Act or this regulation.

(4) As used in this section the services, financial aid, or other benefits 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]

**§ 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 during which the recipient retains ownership or possession of the property. In