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SEX DISCRIMINATION AGENCY REPORTS AND SUMMARIES

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ACTION

Status Summary

ACTION is the principal agency in the Federal Government for administering volunteer service programs. ACTION's purpose is to mobilize Americans for voluntary service throughout the United States through programs which help meet basic human needs and support the self-help efforts of low-income individuals and communities. It was created as an independent agency under the provisions of Reorganization Plan No. 1 of 1971, effective July 1, 1971, and Executive Order No. 11603 of June 30, 1971, with legislative authority provided by the Domestic Volunteer Service Act of 1973, as amended, 42 U.S.C. §4951.

ACTION includes Volunteers in Service to America (VISTA), the Foster Grandparent Program, Retired Senior Volunteer Program (RSVP), the Senior Companion Program, Vietnam Veterans Leadership Program (VVLP), Young Volunteers in Action (YVA), Income Consumer Counseling (ICC), and the Drug Abuse Prevention Program.

ACTION has completed its review of the USC and the CFR and no substantive sex discrimination was uncovered.

Terminological problems were identified in various ACTION documents. ACTION has been asked to correct these documents in the agency's normal regulatory and document review and revision process.

ACTION
QUARTERLY REPORT

I. BACKGROUND

ACTION was established in 1971 as the Federal Agency for volunteer service. The Agency's mission is to advocate, promote, and support the voluntary efforts of citizens and public and private organizations in meeting the problems confronting the poor, the disabled, the elderly and youth with special needs. The volunteers in ACTION's programs represent the broad spectrum of American life and income levels.

In FY 1983, ACTION's program activities include the Older American Volunteer Programs, Service-Learning Programs, VISTA, and the Citizen Participation and Volunteer Demonstration Programs. Each of these programs shares a common goal of advocating volunteer service in addressing important social and human problems.

II. RECENT INITIATIVES

On November 29, 1982, the Director of ACTION issued an "Equal Opportunity Policy Statement" to all employees in which he clearly committed himself and the resources of the Agency to carrying out both the spirit and the letter of equal employment, opportunity, and civil right laws. (Copy of statement - Attachment A) Included in the statement was his commitment to both prohibiting discrimination on the basis of sex and encouraging special emphasis activities relating to women. One result of this statement is that the Agency will be sponsoring a women's week in the near future.

The Agency has also submitted its Title VI regulations to the Department of Justice for approval and will shortly submit its equal opportunity affirmative action plan for the Agency to the reviewing offices at EEOC.

III. AGENCY REVIEW IN THE AREA OF LEGAL EQUITY FOR WOMEN

A review of the present laws, regulations, guidelines, policies, and procedures at ACTION was undertaken to determine those areas in which the Agency promotes legal equity for women and those areas where corrective action is necessary to eliminate discrimination based on sex.

Our authorizing statute contains in Section 417 an explicit prohibition on the provision of financial assistance unless accompanied by provisions that:

No person with responsibilities in the operation of such program will discriminate with respect to any such program because of race, creed, belief, color, national origin, sex, age, handicap, or political affiliation. (Emphasis added.) (42 U.S.C. §5057)

and further requires the issuance of regulations to carry out this section. A detailed regulation outlining a procedure to be utilized by full-time Agency volunteers who allege that discriminatory actions have been taken against them was published in January 1981 and is located at 45 CFR Part 1225. (Attachment B) This regulation was coordinated with the Departments of Justice, Health and Human Services, and two offices in the Equal Employment Opportunity Commission. Recently, the Agency published proposed regulations for all three of its Older American Programs--Foster Grandparents, Senior Companions, and Retired Senior Volunteers--which explicitly prohibit determinations by our grantees of volunteer eligibility to be based on sex. (Attachment C)

The Agency has completed changing from a manual to computer process so that a detailed computer run on the full-time employee make-up of the Agency is now easily obtainable. These statistics are intended for informational purposes as well as a management and educational tool.

A review of the Agency's published regulations reveals that none of the Agency's written areas have a disproportionate impact on women. However, some of the less recently issued regulations do still contain gender-specific terminology. The Agency manual containing its agency-wide procedures, the Integrated Programming and Training System (IPTS), is presently undergoing extensive revisions and will be reviewed on an ongoing basis.

A full listing of the Agency regulations checked for this Report is contained in Attachment D hereto.

IV. AGENCY FUTURE ACTIONS AND RECOMMENDATIONS

The Agency will continue to review its policies to ensure that neither discrimination based on sex nor gender-specific terminology is allowed. At the present time, two Offices - Office of Compliance and Office of General Counsel - include, as a part of their review in the Agency clearance procedure, the issue of disproportionate impact on women and unnecessary gender-specific terminology. Since the Agency's internal procedures are presently under revision, it is hoped that these procedures will be updated in this respect in the near future.

The statistical information presently available to the Agency will continue to be provided to the Agency management to encourage sensitivity to office make-up and to the training possibilities for existing staff. In addition, a study will be conducted for the Director analyzing the impact of the Reduction-in-Force (RIF) on minorities and women.

We recommend a review, on a government-wide basis, of the statutes and regulations in the areas of veteran's preference, seniority, and the use of seniority in RIF procedures and all important areas where there is a disproportionate deleterious impact on women.



OFFICE OF
THE DIRECTOR

ACTION

WASHINGTON, D.C. 20525

29 NOV 1982

MEMORANDUM

TO : All Employees

FROM : Thomas W. Pauken, Director *Tom Pauken*

SUBJECT : Equal Opportunity Policy Statement

As the Director of ACTION, I am committed totally and unequivocally to a policy of equal opportunity. I fully intend to carry out both the spirit and letter of Federal equal employment opportunity and civil rights laws and regulations which prohibit discrimination in employment and programs of the Agency because of race, color, sex, religion, national origin, age, and physical or mental handicap. Further, it is my intention to adhere to the legal mandate to promote the full realization of equal employment on the basis of merit and fitness through a continuing Affirmative Action Program throughout the Agency.

To the maximum extent possible, ACTION shall provide sufficient resources to administer the affirmative action program. ACTION employees, supervisors, and managers at all levels are expected to pursue the objectives of our Affirmative Action Plan actively and vigorously. This is an area in which we all share responsibilities and achievements.

We are acutely aware of the problems of a shrinking work force and budget constraints that attribute to limited placement opportunities; however, in these austere times, ACTION will maintain its policy of ensuring that equal employment opportunity and affirmative action continue to be recognized as high priority management commitments.

Under my direction and through the Assistant Director for Compliance, the Equal Opportunity Division shall develop and monitor the Agency's affirmative action program, carry out special emphasis activities relating to minorities and women, provide prompt and impartial disposition of discrimination complaints, and monitor programs receiving Federal financial assistance.

I expect all managers and supervisors to exercise a leadership role in aggressively executing these policies. Without your dedication and cooperation, these responsibilities cannot be implemented effectively. Working together ensures a successful equal opportunity program.

ACTION**PEACE CORPS****45 CFR Part 1225****Volunteer Discrimination Complaint Procedure**

AGENCY: ACTION and Peace Corps.
ACTION: Final regulation.

SUMMARY: This regulation establishes a procedure for the handling of allegations of discrimination based on race, color, national origin, religion, age, sex, handicap, or political affiliation which arise in connection with the enrollment or service of full-time Volunteers in Peace Corps and ACTION.

EFFECTIVE DATE: This regulation shall take effect on February 20, 1981.

FOR FURTHER INFORMATION CONTACT: Bart Crivella, Director, Division of Equal Opportunity, ACTION, 806 Connecticut Avenue, NW., Washington, D.C. 20525 (202) 254-5940.

SUPPLEMENTARY INFORMATION: Section 12 of the Domestic Volunteer Service Act Amendments of 1979 (Pub. L. 96-143) extended to applicants for enrollment and Volunteers serving under both the Peace Corps Act (22 U.S.C. 2501 et seq.) and the Domestic Volunteer Service Act (42 U.S.C. 4951 et seq.) the nondiscrimination policies and authorities set forth in Section 717 of the Civil Rights Act of 1964, Title V of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975. That section further directed that any remedies available to individuals under such laws, other than the right to appeal to the Civil Service Commission authorized by Section 717 of the Civil Rights Act of 1964, and transferred to the Equal Employment Opportunity Commission by Reorganization Plan Number 1 of 1978, shall be available to such applicants or Volunteers.

This amendment was necessary to ensure that such Volunteers were within the scope of the nondiscrimination provisions of the three cited Acts, since those Acts apply to either employees or recipients of Federal financial assistance. Under Section 5(a) of the Peace Corps Act and Section 415 of the Domestic Volunteer Service Act, Volunteers are not deemed Federal employees except for certain stated purposes. Furthermore, such Volunteers are not treated as recipients of Federal financial assistance.

However, aware of the unique status of domestic and international Volunteers, Congress, in extending the protection of the cited Acts to the

Volunteers, did not require the *per se* adoption of the rules, regulations, and procedures extant under such Acts, but rather required that the Director, after consultation with certain designated entities, prescribe regulations specifically tailored to the circumstances of such Volunteers.

As required by statute in prescribing these regulations, ACTION and Peace Corps have consulted with the following entities: (1) The Equal Employment Opportunity Commission (EEOC) with regard to the application of the policies set forth in Section 717 of the Civil Rights Act of 1964; (2) the Interagency Coordinating Council and the Interagency Committee on Handicapped Employees with regard to the application of the policies set forth in Title V of the Rehabilitation Act of 1973; and (3) the Secretary of Health and Human Services, with regard to the application of the policies set forth in the Age Discrimination Act of 1975. This consultation process has been completed.

The proposed rule was published in the Federal Register for comment on September 19, 1980 (45 FR 82512). The Agency has considered the public comments received and has determined to adopt the proposed regulation with certain modifications. Discussed below are the provisions of the final regulation and the major public comments received in response to the proposed rule. While this regulation has been developed with consideration of comments from the public, as a matter involving Volunteers, it is exempt from the requirements of Executive Order 12044, "Improving Government Regulations."

I. Complaint Procedure

These regulations apply to the recruitment, selection, placement, service, or termination of Peace Corps or ACTION applicants, trainees, and Volunteers for full-time service in either a domestic or international program. They require that an aggrieved party who believes that he or she has been discriminated against must first meet with a Counselor to attempt an informal resolution of the matter. If this fails, a formal complaint may be filed with the Director of the Equal Opportunity Division of the Office of Compliance ACTION (EO Director). When the complaint is accepted, an investigation into the matter will be performed and submitted to both the EO Director and the complainant. The EO Director shall review the complaint file, including any additional statements provided by the complainant, and shall offer an adjustment of the complaint if it is

warranted. If this adjustment is not acceptable to the complainant, or if the EO Director determines that such an offer is not warranted by the circumstances of the complaint, the file, including the EO Director's recommendation, will be forwarded to the appropriate agency Director for decision. The complainant will be notified of this action and of his or her right to appeal the recommendation. Upon receipt and review of the complaint file and any additional matter submitted by the complainant, the Director shall issue a final agency decision in writing to the complainant. If the complainant is dissatisfied with the final agency decision, the complainant may file in a timely manner a civil action alleging discrimination in the appropriate U.S. District Court.

II. Discussion of Comments Received

The Agency received a total of four (4) written comments—from one of the consultative agencies, from agency officials, and from a member of the public. The majority of such comments were of a technical nature and were incorporated into the final regulations. However, four (4) substantive issues dealt with in the proposed regulations were reviewed due to public comment.

Procedure for allegations of reprisal. The Interagency Coordinating Council in its role as a consultative agency recommended that the regulations should include a section that provides a procedure for persons alleging reprisal or retaliatory actions. The proposed regulation in § 1225.6 merely states that such persons will be free from restraint, coercion, discrimination, or reprisal at any stage of the complaint and pre-complaint procedure. Accordingly, § 1225.7 has been added which provides a procedure whereby such complaints will be handled.

Provision of Attorney Fees. A comment was received that suggested that the presently proposed section involving the provision of attorney fees (§ 1225.5) be expanded to authorize payment to representatives other than attorneys. After consideration, and discussion with the equal Employment Opportunity Commission, it was determined that the provision of fees should remain limited to attorneys. This is in accordance with the EEOC guidelines in this area (interim revised regulations published April 9, 1980; 45 FR 24130-33) issued to comply with several court decisions extending the statutory provision for attorney fees in a civil action to that work done during the administrative processing of a complaint. Therefore, this final

tion has retained the authorization for attorney fees in accordance with the interim regulations of the EEOC, and in accordance with the courts' interpretation of Sections 706(k) and 717 of Title VII of the Civil Rights Act of 1964, as amended. (42 U.S.C. 2000e-16).

Time Limitations. A comment was received from the public that suggested that a fixed time limit should be imposed for the instigation and completion of investigations to insure even and prompt agency enforcement. The Agency does not believe a fixed time limit is necessary in this circumstance for two reasons. First, the aggrieved party has the option to file a civil action in the appropriate U.S. District Court after one hundred eighty (180) calendar days from the date of filing a complaint if there has been no final agency action (§ 1225.21). Second, given the diverse circumstances under which discrimination may be alleged due to the wide geographic area in which Peace Corps and domestic Volunteers serve, the Agency believes a fixed time limit would be impractical and that the commitment presently given in the regulations to investigate and promptly process complaints is a sufficient safeguard.

Corrective Action. As proposed, the regulation (§ 1225.10) states that although the agency is committed to placing the aggrieved Volunteer in the same position held prior to his or her early termination, several programmatic considerations such as the continued availability of the position or program, and acceptance by the host country to the placement may preclude such placement. The final regulation states that if the same position is deemed no longer available, the agency will attempt to place the aggrieved party in as similar a position as possible to the original position. However, this could result in an aggrieved party being required to undergo additional training and to make a new, full-term commitment to another volunteer position. In order to lessen the inconvenience that may result from such an extension of an aggrieved party's volunteer commitment, the final regulation will allow the Volunteer to exercise the option to resign for reasons beyond his or her control. This option will qualify the Volunteer, if in service for at least a year, for a certificate of satisfactory service, which entitles him or her to the benefits of non-competitive eligibility.

Accordingly, Part 1225 is added, as follows to Title 45 of the Code of Federal Regulations:

PART 1225—VOLUNTEER DISCRIMINATION COMPLAINT PROCEDURE

Subpart A—General Provisions

- Sec.
- 1225.1 Purpose.
- 1225.2 Policy.
- 1225.3 Definitions.
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Subpart B—Processing Individual Complaints of Discrimination

- 1225.8 Precomplaint procedure.
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Subpart C—Processing Class Complaints of Discrimination

- 1225.12 Precomplaint procedure.
- 1225.13 Acceptance, rejection, or cancellation of complaint.
- 1225.14 Consolidation of complaints.
- 1225.15 Notification and opting out.
- 1225.16 Investigation and adjustment of complaint.
- 1225.17 Agency decision.
- 1225.18 Notification of class members of decision.
- 1225.19 Corrective action.
- 1225.20 Claim appeals.
- 1225.21 Statutory rights.

Authority: Secs. 417, 402(14), 420, Pub. L. 89-113, 87 Stat. 368, 407, and 414; Sec. 5(a), Pub. L. 87-263, 75 Stat. 613; Executive Order 12137, issued May 18, 1978.

Subpart A—General Provisions

§ 1225.1 Purpose.

The purpose of this part is to establish a procedure for the filing, investigation, and administrative determination of allegations of discrimination based on race, color, national origin, religion, age, sex, handicap or political affiliation, which arise in connection with the recruitment, selection, placement, service, or termination of Peace Corps and ACTION applicants, trainees, and Volunteers for full-time service.

§ 1225.2 Policy.

It is the policy of Peace Corps and ACTION to provide equal opportunity in all its programs for all persons and to prohibit discrimination based on race, color, national origin, religion, age, sex, handicap or political affiliation, in the recruitment, selection, placement, service, and termination of Peace Corps and ACTION Volunteers. It is the policy of Peace Corps and ACTION upon determining that such prohibited discrimination has occurred, to take all necessary corrective action to remedy the discrimination, and to prevent its recurrence.

§ 1225.3 Definitions.

Unless the context requires otherwise, in this Part:

(a) "Director" means the Director of Peace Corps for all Peace Corps applicant, trainee, or Volunteer complaints processed under this Part, or the Director of ACTION for all domestic applicant, trainee, or Volunteer complaints processed under this Part. The term shall also refer to any designee of the respective Director.

(b) "EO Director" means the Director of the Equal Opportunity Division of the Office of Compliance, ACTION. The term shall also refer to any designee of the EO Director.

(c) "Illegal discrimination" means discrimination on the basis of race, color, national origin, religion, age, sex, handicap or political affiliation as defined in Section 5(a) of the Peace Corps Act (22 U.S.C. 2504); Section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000-18); Title V of the Rehabilitation Act of 1973 (29 U.S.C. 791, et seq.); and the Age Discrimination Act of 1975 (42 U.S.C. 6101, et seq.). Further clarification of the scope of matters covered by this definition may be obtained by referring to the following regulations: Sex Discrimination: 29 CFR Part 1604; Religious Discrimination: 29 CFR Part 1605; National Origin Discrimination: 29 CFR Part 1606; Age Discrimination: 45 CFR Part 90; Handicap Discrimination: 29 CFR 1613.701-707.

(d) "Applicant" means a person who has submitted to the appropriate agency personnel a completed application required for consideration of eligibility for Peace Corps or ACTION volunteer service. "Applicant" may also mean a person who alleges that the actions of agency personnel precluded him or her from submitting such an application or any other information reasonably required by the appropriate personnel as necessary for a determination of the individual's eligibility for volunteer service.

(e) "Trainee" means a person who has accepted an invitation issued by Peace Corps or ACTION and has registered for Peace Corps or ACTION training.

(f) "Volunteer" means a person who has completed successfully all necessary training; met all clearance standards; has taken, if required, the oath prescribed in either Section 5(j) of the Peace Corps Act (22 U.S.C. 2504), or Section 104(c) of the Volunteer Service Act of 1973, as amended (42 U.S.C. 104(c)) and has been enrolled as a full-time Volunteer by the appropriate agency.

(g) "Complaint" means a written statement signed by the complainant and submitted to the EO Director. A

complaint shall set forth specifically and in detail:

(1) A description of the Peace Corps or ACTION management policy or practice, if any, giving rise to the complaint;

(2) A detailed description including names and dates, if possible, of the actions of the Peace Corps or ACTION officials which resulted in the alleged illegal discrimination;

(3) The manner in which the Peace Corps or ACTION action directly affected the complainant; and

(4) The relief sought.

A complaint shall be deemed filed on the date it is received by the appropriate agency official. When a complaint does not conform with the above definition, it shall nevertheless be accepted. The complainant shall be notified of the steps necessary to correct the deficiencies of the complaint. The complainant shall have 30 days from his or her receipt of notification of the complaint defects to resubmit an amended complaint.

(h) "Counselor" means an official designated by the EO Director to perform the functions of conciliation as detailed in this part.

(i) "Agent" means a class member who acts for the class during the processing of a class complaint. In order to be accepted as the agent for a class complaint, in addition to those requirements of a complaint found in § 1225.3(g) of this part, the complaint must meet the requirements for a class complaint as found in Subpart C of these regulations.

§ 1225.4 Coverage.

(a) These procedures apply to all Peace Corps or ACTION applicants, trainees, and Volunteers throughout their term of service with the Peace Corps or ACTION. When an applicant, trainee, or Volunteer makes a complaint which contains an allegation of illegal discrimination in connection with an action that would otherwise be processed under a grievance, early termination, or other administrative system of the agency, the allegation of illegal discrimination shall be processed under this Part. At the discretion of the appropriate Director, any other issues raised may be consolidated with the discrimination complaint for processing under these regulations. Any issues which are not so consolidated shall continue to be processed under those procedures in which they were originally raised.

(b) The submission of class complaints alleging illegal discrimination as defined above will be

handled in accordance with the procedure outlined in Subpart C.

§ 1225.5 Representation.

Any aggrieved party may be represented and assisted in all stages of these procedures by an attorney or representative of his or her own choosing. An aggrieved party must immediately inform the agency if counsel is retained. Attorney fees or other appropriate relief may be awarded in the following circumstances:

(a) Informal adjustment of a complaint. An informal adjustment of a complaint may include an award of attorney fees or other relief deemed appropriate by the EO Director. Where the parties agree on an adjustment of the complaint, but cannot agree on whether attorney fees or costs should be awarded, or on their amount, this issue may be appealed to the appropriate Director to be determined in the manner detailed in § 1225.11 of this Part.

(b) Final Agency Decision. When discrimination is found, the appropriate Director shall advise the complainant that any request for attorney fees or costs must be documented and submitted for review within 20 calendar days after his or her receipt of the final agency decision. The amount of such awards shall be determined under § 1225.11. In the unusual situation in which it is determined not to award attorney fees or other costs to a prevailing complainant, the appropriate Director in his or her final decision shall set forth the specific reasons thereof.

§ 1225.6 Freedom from reprisal.

Aggrieved parties, their representatives, and witnesses will be free from restraint, interference, coercion, discrimination, or reprisal at any stage in the presentation and processing of a complaint, including the counseling stage described in § 1225.8 of this part, or any time thereafter.

§ 1225.7 Review of allegations of reprisal.

An aggrieved party, his or her representative, or a witness who alleges restraint, interference, coercion, discrimination, or reprisal in connection with the presentation of a complaint under this part, may, if covered by this part, request in writing that the allegation be reviewed as an individual complaint of discrimination subject to the procedures described in Subpart B or that the allegation be considered as an issue in the complaint at hand.

Subpart B—Processing Individual Complaints of Discrimination

§ 1225.8 Precomplaint procedure.

(a) An aggrieved person who believes that he or she has been subject to illegal discrimination shall bring such allegations to the attention of the appropriate Counselor within 30 days of the alleged discrimination to attempt to resolve them. The process for notifying the appropriate Counselor is the following:

(1) Aggrieved applicants, trainees or Volunteers who have not departed for overseas assignments, or who have returned to Washington for any administrative reason shall direct their allegations to the EO Director for assignment to an appropriate Counselor.

(2) Aggrieved trainees or Volunteers overseas shall direct their allegations to the designated Counselor for that post.

(3) Aggrieved applicants, trainees, and Volunteers applying for, or enrolled in ACTION domestic programs shall direct their allegations to the designated Counselor for that Region.

(b) Upon receipt of the allegation, the Counselor or designee shall make whatever inquiry is deemed necessary into the facts alleged by the aggrieved party and shall counsel the aggrieved party for the purpose of attempting an informal resolution agreeable to all parties. The Counselor will keep a written record of his or her activities which will be submitted to the EO Director if a formal complaint concerning the matter is filed.

(c) If after such inquiry and counseling an informal resolution to the allegation is not reached, the Counselor shall notify the aggrieved party in writing of the right to file a complaint of discrimination with the EO Director within 15 calendar days of the aggrieved party's receipt of the notice.

(d) The Counselor shall not reveal the identity of the aggrieved party who has come to him or her for consultation, except when authorized to do so by the aggrieved party. However, the identity of the aggrieved party may be revealed once the agency has accepted a complaint of discrimination from the aggrieved party.

§ 1225.9 Complaint procedure.

(a) EO Director. (1) The EO Director must accept a complaint if the process set forth above has followed, and the complaint states a charge of illegal discrimination. The agency will extend the time limits set herein (a) when the complainant shows that he or she was not notified of the time limits and was not otherwise aware of them, or (b) the complainant shows that he or she was

nted by circumstances beyond his control from submitting the matter in a timely fashion, or (c) for other reasons considered sufficiently by the agency. At any time during the complaint procedure, the EO Director may cancel a complaint because of failure of the aggrieved party to prosecute the complaint. If the complaint is rejected for failure to meet one or more of the requirements set out in the procedure outlined in § 1225.9 or is cancelled, the EO Director shall inform the aggrieved party in writing of this Final Agency Decision; that the Peace Corps or ACTION will take no further action; and of the right, to file a civil action as described in § 1225.21 of this part.

(2) Upon acceptance of the complaint and receipt of the Counselor's report, the EO Director shall provide for the prompt investigation of the complaint. Whenever possible, the person assigned to investigate the complaint shall occupy a position in the agency which is not, directly or indirectly, under the jurisdiction of the head of that part of the agency in which the complaint arose. The investigation shall include a thorough review of the circumstances under which the alleged discrimination occurred, and any other circumstances may constitute, or appear to constitute discrimination against the complainant. The investigator shall compile an investigative file, which includes a summary of the investigation, recommended findings of fact and a recommended resolution of the complaint. The investigator shall forward the investigative file to the EO Director and shall provide the complainant with a copy.

(3) The EO Director shall review the complaint file including any additional statements provided by the complainant, make findings of fact, and shall offer an adjustment of the complaint if the facts support the complaint. If the proposed adjustment is agreeable to all parties, the terms of the adjustment shall be reduced to writing, signed by both parties, and made part of the complaint file. A copy of the terms of the adjustment shall be provided to the complainant. If the proposed adjustment of the complaint is not acceptable to the complainant, or the EO Director determines that such an offer is inappropriate, the EO Director shall forward the complaint file with a written notification of the findings of facts, and his or her recommendation of the proposed disposition of the complaint to the appropriate Director. The aggrieved party shall receive a copy of notification and recommendation

and shall be advised of the right to appeal the recommended disposition to the appropriate Director. Within ten (10) calendar days of receipt of such notice, the complainant may submit his or her appeal of the recommended disposition to the appropriate Director.

(b) *Appeal to Director.* If no timely notice of appeal is received from the aggrieved party, the appropriate Director or designee may adopt the proposed disposition as the Final Agency Decision. If the aggrieved party appeals, the appropriate Director or designee, after review of the total complaint file, shall issue a decision to the aggrieved party. The decision of the appropriate Director shall be in writing, state the reasons underlying the decision, shall be the Final Agency Decision, shall inform the aggrieved party of the right to file a civil action as described in § 1225.21 of this part, and, if appropriate, designate the procedure to be followed for the award of attorney fees or costs.

§ 1225.10 Corrective action.

When it has been determined by Final Agency Decision that the aggrieved party has been subjected to illegal discrimination, the following corrective actions may be taken:

(a) Selection as a Trainee for aggrieved parties found to have been denied selection based on prohibited discrimination.

(b) Reappointment to Volunteer service for aggrieved parties found to have been early-terminated as a result of prohibited discrimination. To the extent possible, a Volunteer will be placed in the same position previously held. However, reassignment to the specific country of prior service, or to the specific position previously held, is contingent on several programmatic considerations such as the continued availability of the position, or program in that country, and acceptance by the host country of such placement. If the same position is deemed to be no longer available, the aggrieved party will be offered a reassignment to a position in as similar circumstances to the position previously held, or to resign from service for reasons beyond his or her control. Such a reassignment may require both additional training and an additional two year commitment to volunteer service.

(c) Provision for reasonable attorney fees and other costs incurred by the aggrieved party.

(d) Such other relief as may be deemed appropriate by the Director of Peace Corps or ACTION.

§ 1225.11 Amount of Attorney fees.

(a) When a decision of the agency provides for an award of attorney's fees or costs, the complainant's attorney shall submit a verified statement of costs and attorney's fees as appropriate, to the agency within 20 days of receipt of the decision. A statement of attorney's fees shall be accompanied by an affidavit executed by the attorney of record itemizing the attorney's charges for legal services. Both the verified statement and the accompanying affidavit shall be made a part of the complaint file. The amount of attorney's fees or costs to be awarded the complainant shall be determined by agreement between the complainant, the complainant's representative and the appropriate Director. Such agreement shall immediately be reduced to writing. If the complainant, the representative and the agency cannot reach an agreement on the amount of attorney's fees or costs within 20 calendar days of receipt of the verified statement and accompanying affidavit, the appropriate Director shall issue a decision determining the amount of attorney fees or costs within 30 calendar days of receipt of the statement and affidavit. Such decision shall include the specific reasons for determining the amount of the award.

(b) The amount of attorney's fees shall be made in accordance with the following standards: the time and labor required, the novelty and difficulty of the questions, the skills requisite to perform the legal service properly, the preclusion of other employment by the attorney due to acceptance of the case, the customary fee, whether the fee is fixed or contingent, time limitation imposed by the client or the circumstances, the amount involved and the results obtained, the experience, reputation, and ability of the attorney, the undesirability of the case, the nature and length of the professional relationship with the client, and the awards in similar cases.

Subpart C—Processing Class Complaints of Discrimination

§ 1225.12 Precomplaint procedure.

An applicant, trainee or Volunteer who believes that he or she is among a group of present or former Peace Corps or ACTION Volunteers, trainees, or applicants for volunteer service who have been illegally discriminated against and who wants to be an agent for the class shall follow those precomplaint procedures outlined in § 1225.8 of this part.

§ 1225.13 Acceptance, rejection or cancellation of complaint.

(a) Upon receipt of a class complaint, the Counselor's report, and any other information pertaining to timeliness or other relevant circumstances related to the complaint, the EO Director shall review the file to determine whether to accept or reject the complaint, or a portion thereof, for any of the following reasons:

- (1) It was not timely filed;
- (2) It consists of an allegation which is identical to an allegation contained in a previous complaint filed on behalf of the same class which is pending in the agency or which has been resolved or decided by the agency;
- (3) It is not within the purview of this subpart;
- (4) The agent failed to consult a Counselor in a timely manner;
- (5) It lacks specificity and detail;
- (6) It was not submitted in writing or was not signed by the agent;
- (7) It does not meet the following prerequisites:
 - (i) The class is so numerous that a consolidated complaint of the members of the class is impractical;
 - (ii) There are questions of fact common to the class;
 - (iii) The claims of the agent of the class are representative of the claims of the class;
 - (iv) The agent of the class, or his or her representative will fairly and adequately protect the interest of the class.

(b) If an allegation is not included in the Counselor's report, the EO Director shall afford the agent 15 calendar days to explain whether the matter was discussed and if not, why he or she did not discuss the allegation with the Counselor. If the explanation is not satisfactory, the EO Director may decide to reject the allegation. If the explanation is satisfactory, the EO Director may require further counseling of the agent.

(c) If an allegation lacks specificity and detail, or if it was not submitted in writing or not signed by the agent, the EO Director shall afford the agent 30 days from his or her receipt of notification of the complaint defects to resubmit an amended complaint. The EO Director may decide that the agency reject the complaint if the agent fails to provide such information within the specified time period. If the information provided contains new allegations outside the scope of the complaint, the EO Director must advise the agent how to proceed on an individual or class basis concerning these allegations.

(d) The EO Director may extend the time limits for filing a complaint and for

consulting with a Counselor when the agent, or his or her representative, shows that he or she was not notified of the prescribed time limits and was not otherwise aware of them or that he or she was prevented by circumstances beyond his or her control from acting within the time limit.

(e) When appropriate, the EO Director may determine that a class be divided into subclasses and that each subclass be treated as a class, and the provisions of this section then shall be construed and applied accordingly.

(f) The EO Director may cancel a complaint after it has been accepted because of failure of the agent to prosecute the complaint. This action may be taken only after:

- (1) The EO Director has provided the agent a written request, including notice of proposed cancellation, that he or she provide certain information or otherwise proceed with the complaint; and
 - (2) within 30 days of his or her receipt of the request.
- (g) An agent must be informed by the EO Director in a request under paragraphs (b) or (c) of this section that his or her complaint may be rejected if the information is not provided.

§ 1225.14 Consolidation of complaints.

The EO Director may consolidate the complaint if it involves the same or sufficiently similar allegations as those contained in a previous complaint filed on behalf of the same class which is pending in the agency or which has been resolved or decided by the agency.

§ 1225.15 Notification and opting out.

(a) Upon acceptance of a class complaint, the agency, within 30 calendar days, shall use reasonable means, such as delivery, mailing, distribution, or posting, to notify all class members of the existence of the class complaint.

(b) A notice shall contain: (1) The name of the agency or organizational segment thereof, its location and the date of acceptance of the complaint; (2) a description of the issues accepted as part of the class complaint; (3) an explanation that class members may remove themselves from the class by notifying the agency within 30 calendar days after issuance of the notice; and (4) an explanation of the binding nature of the final decision or resolution of the complaint.

§ 1225.16 Investigation and adjustment of complaint.

The complaint shall be processed promptly after it has been accepted. Once a class complaint has been

accepted, the procedure outlined in § 1225.9 of this part shall apply.

§ 1225.17 Agency decision.

(a) If an adjustment of the complaint cannot be made the procedures outlined in § 1225.9 shall be followed by the EO Director except that any notice required to be sent to the aggrieved party shall be sent to the agent of the class or his or her representative.

(b) The Final Agency Decision on a class complaint shall be binding on all members of the class.

§ 1225.18 Notification of class members of decision.

Class members shall be notified by the agency of the final agency decision and corrective action, if any, using at the minimum, the same media employed to give notice of the existence of the class complaint. The notice, where appropriate, shall include information concerning the rights of class members to seek individual relief and of the procedures to be followed. Notice shall be given by the agency within ten (10) calendar days of the transmittal of its decision to the agent.

§ 1225.19 Corrective action.

(a) When discrimination is found, Peace Corps or ACTION must take appropriate action to eliminate or modify the policy or practice out of which such discrimination arose, and provide individual corrective action to the agent and other class members in accordance with § 1225.10 of this part.

(b) When discrimination is found and a class member believes that but for that discrimination he or she would have been accepted as a Volunteer or received some other volunteer service benefit, the class member may file a written claim with the EO Director within thirty (30) calendar days of notification by the agency of its decision.

(c) The claim must include a specific, detailed statement showing that the claimant is a class member who was affected by an action or matter resulting from the discriminatory policy or practice which arose not more than 30 days preceding the filing of the class complaint.

(d) The agency shall attempt to resolve the claim within sixty (60) calendar days after the date the claim was postmarked, or, in the absence of a postmark, within sixty (60) calendar days after the date it was received by the EO Director.

§ 1225.20 Claim appeals.

(a) If the EO Director and claimant do not agree that the claimant is a member of the class, or upon the relief to which

the claimant is entitled, the EO Director shall refer the claim, with recommendations concerning it to the appropriate Director for Final Agency decision and shall so notify the claimant. The class member may submit written evidence to the appropriate Director concerning his or her status as a member of the class. Such evidence must be submitted no later than ten (10) calendar days after receipt of referral.

(b) The appropriate Director shall decide the issue within thirty (30) days of the date of referral by the EO Director. The claimant shall be informed in writing of the decision and its basis and that it will be the Final Agency Decision on the issue.

§ 1225.21 Statutory rights.

(a) A Volunteer, trainee, or applicant is authorized to file a civil action in an appropriate U.S. District Court:

(1) Within thirty (30) calendar days of his or her receipt of notice of final action taken by the agency.

(2) After one hundred eighty (180) calendar days from the date of filing a complaint with the agency if there has been no final agency action.

(b) For those complaints alleging discrimination that occur outside the United States, the U.S. District Court for the District of Columbia shall be deemed the appropriate forum.

Signed at Washington, D.C., this 19th day of December 1980.

Jim Brown,

Director of ACTION.

Richard F. Celeste,

Director of Peace Corps.

(FR Doc. 81-331 Filed 1-5-81; 8:45 am)

BILLING CODE 5000-01-M

Avenue NW., Washington, D.C. 20525
(202) 254-5940.

SUPPLEMENTARY INFORMATION: In a document published elsewhere in this part of today's Federal Register, ACTION issues a final regulation establishing a procedure for handling allegations of discrimination by volunteers. That regulation is codified at 45 CFR Part 1225. The proposed rule was published in the Federal Register for comment on September 18, 1980 (45 FR 82512). As detailed in the ACTION document today, the Agency has considered comments in the formulation of its final rule.

In this document, the Peace Corps adds a new part to its regulations in 22 CFR which indicates that the ACTION regulation in 45 CFR Part 1225 is applicable to Peace Corps volunteers.

Signed at Washington, D.C., this 19th day of December, 1980.

Richard F. Celeste,

Peace Corps Director.

Accordingly, a new Part 306 is added to 22 CFR Chapter III to read as follows:

PART 306—VOLUNTEER DISCRIMINATION COMPLAINT PROCEDURE

Cross Reference: ACTION regulations concerning the volunteer discrimination complaint procedure, appearing in 45 CFR Part 1225, are applicable to Peace Corps volunteers.

(Secs. 417, 402(14), 420, Pub. L. 93-113, 87 Stat. 398, 407, and 414; Sec. 5(a), Pub. L. 87-293, 75 Stat. 813; Executive Order 12137, issued May 16, 1979)

(FR Doc. 81-344 Filed 1-5-81; 8:45 am)

BILLING CODE 5000-01-M

PEACE CORPS

22 CFR Part 306

Volunteer Discrimination Complaint Procedure

AGENCY: Peace Corps.

ACTION: Final regulation.

SUMMARY: This regulation establishes a procedure for the handling of allegations of discrimination based on race, color, national origin, religion, age, sex, handicap, or political affiliation which arise in connection with the enrollment or service of full-time Volunteers in both Peace Corps and ACTION programs.

EFFECTIVE DATE: This part shall take effect on February 20, 1981.

FOR FURTHER INFORMATION CONTACT: Bart Crivella, Director, Division of Equal Opportunity, ACTION, 806 Connecticut

- (c) Regional administration
- (d) USPS protection force
- (1) Window service
- (2) Lock Box
- (3) Mail preparation
- (4) Parcel processing
- (5) Platform processing
- (6) Express mail
- (7) Registry
- (8) Special delivery
- (9) City carriers
- (10) Rural carriers
- (11) Administration
- (e) Other law enforcement
- (f) Research and development
- (g) Postal Rate Commission
- 2. Servicewide personnel costs:
 - (a) Repriced annual leave
 - (b) Holiday leave variance
 - (c) Civil Service Retirement Fund deficit
 - (1) Current year
 - (2) Prior years
 - (d) Workers compensation
 - (1) Current year
 - (2) Prior years
 - (e) Adverse actions
 - (f) Fair Labor Standards Act expense
- 3. Supplies and services
 - (a) Supplies and services
 - (b) Awards
 - (c) Insurance claims and indemnities
 - (d) Reimbursements
- 4. Interest expense
 - (a) Capital interest expense
 - (b) Operating interest expense

Cost Segment XIX—General Management Systems

- 1. Personnel costs:
 - (a) Postal source data systems
 - (b) Maintenance technical support center
- 2. Supplies and services.

Cost Segment XX—Depreciation and Servicewide Costs

- 1. Vehicle depreciation:
 - (a) City delivery vehicles
 - (1) Office
 - (2) Business parcel and accountable load
 - (3) Other load
 - (4) Access
 - (5) Route
 - (b) Special delivery vehicles
 - (c) Other vehicles
- 2. Equipment depreciation
 - (a) Mail processing
 - (b) Customer services
 - (c) Postal support
- 3. Building depreciation:
 - (a) Building
 - (1) Window service
 - (2) Lock box
 - (3) Mail preparation
 - (4) Parcel processing
 - (5) Platform processing
 - (6) Express mail
 - (7) Registry
 - (8) Special delivery
 - (9) City carriers
 - (10) Rural carriers
 - (11) Administration
 - (b) Leasehold
 - (1) Window service
 - (2) Lock box
 - (3) Mail preparation
 - (4) Parcel processing

- (5) Platform processing
- (6) Express mail
- (7) Registry
- (8) Special delivery
- (9) City carriers
- (10) Rural carriers
- (11) Administration
- 4. Indemnities and insurance claim write-offs:
 - (a) Domestic indemnities
 - (b) International indemnities
 - (c) Unemployment compensation
 - (d) Insurance claim write-offs
- 5. Other operating expenses
 - (a) Non-U.S. money orders
 - (b) Other expenses
 - (c) Advertising
 - (d) Back pay adjustment
 - (e) Embossed stamped envelopes
 - (f) Reimbursements and miscellaneous

Adjustments

- 1. Attributable.
- 2. Other.

[FR Doc. 82-28856 Filed 10-29-82; 8:45 am]
BILLING CODE 7715-01-M

ACTION

45 CFR Part 1207

Senior Companion Program; Clarification and Updating of Provisions

AGENCY: ACTION.

ACTION: Proposed rule revision.

SUMMARY: This proposed revision is intended to clarify and update existing Senior Companion regulations relating to project development and funding, project operations, non-ACTION funded projects and special limitations affecting aspects of project operations. The text is simplified and reduced wherever possible.

DATE: Comments must be received by December 2, 1982.

ADDRESS: Written comments should be sent to: Director, Older American Volunteer Programs, ACTION, 806 Connecticut Avenue, NW., Room M-1006, Washington, D.C. 20525.

FOR FURTHER INFORMATION CONTACT: Betty H. Brake, (202) 254-7310.

SUPPLEMENTARY INFORMATION: ACTION has determined that this regulation is not a major rule as defined by Executive Order 12291. The regulation will not result in any of the following:

- 1. Any effect on the economy;
- 2. Any increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions; or
- 3. Any adverse effects on competition, employment, investment productivity, innovation or on the ability of the United States-based enterprises to

compete with foreign-based enterprises in domestic or export markets.

Subpart A—General

Subpart B—Project Development and Funding

1. Proposed Sec. 1-1 is amended to more precisely define the purpose of the Program. Sec. 1-2 is expanded to include definitions of terms used in the proposed regulations. Proposed Sec. 1-3 is added to ensure cooperation with existing or planned community services.

2. The Subpart B heading has been changed from "Local Program Sponsors" to "Project Development and Funding" to more accurately describe contents of the section. The proposed change the grant application process from applicant inquiry to final action.

3. Proposed Sec. 2-1 directs inquiries regarding the SCP grant application process to the appropriate ACTION State Office. It replaces Sec. 2-2 of current regulations and is meant to clarify the inquiry process for potential sponsors.

4. Proposed Sec. 2-2, "Local Support", replaces a portion of Sec. 2-1 of the current regulations and prohibits the use of excess stipend payments as part of the local share of project costs.

5. Proposed Sec. 2-3, "Sponsor Eligibility and Solicitation of Proposals", replaces a like numbered section in the current regulations entitled "State Agency on Aging and Community Action Participation". The new section includes reference to all eligible applicants. In accord with P.L. 97-35, the proposed regulations delete the requirement that State Agencies on Aging and/or Community Action Agencies must be afforded a reasonable opportunity to apply for a grant or must be consulted in the development of the local project.

6. Proposed Sec. 2-4, "Project Proposals", Sec. 2-5 "Review of Project Proposals", Sec. 2-6 "Awards", Sec. 2-7 "Grant Management" Sec. 2-8 "Suspension, Termination and Denial of Refunding", replace current Sections 2-4 "Responsibilities", 2-5 "Local Program Staff" and 2-6 "Suspension or Termination of a Grant and Denial of Application for Refunding". The proposed revisions describe the grants process in a more comprehensive manner and exclude matters more appropriately treated in subsequent sections.

Subpart C—Project Operations

7. This subpart is completely revised. Current Sec. 2-4 becomes new Sec. 3-1 "Sponsor Responsibility". In addition to clarification of the sponsor's

responsibilities, this section also replaces current Sec. 3-5 "Memorandum of Understanding". Significant proposed changes or additions under this subpart include the following:

a. Sec. 3-3(c) changes the membership of the Advisory Council, requiring that 25% of the members be low-income persons aged sixty and over and must include Senior Companions as voting members.

b. Sec. 3-4 outlines criteria for a sponsoring organization functioning as a volunteer station.

c. Sec. 3-5(a)(3) revises the basis for determining Senior Companion income eligibility levels.

d. Sec. 3-5(c) incorporates policy requiring that volunteer direct benefits shall be an amount equal to at least 90% of the ACTION grant award.

e. Sec. 3-5(c)(1)(i) requires portal-to-portal accident insurance for Senior Companions.

f. Sec. 3-5(c)(5) clarifies policy regarding eligibility of both members of a married couple serving as Senior Companions.

Subpart D—Non-ACTION Funded Projects

8. Replaces current "Subpart D—Volunteers", all provisions of which, with the exception of Sec. 4-4, are covered under new Subpart C above. Proposed Subpart allows the development of a non-ACTION funded Senior Companion project under specific conditions.

Subpart E—Sanctions and Legal Representations

9. Current "Subpart E—General" is deleted, its content, with the exception of Sec. 5-5, is incorporated in preceding proposed changes. Proposed new Subpart E prescribes special limitations on political and religious activities; prohibitions on: discrimination; funding of labor or anti-labor organization or related activity; displacement of employed workers by Senior Companion volunteers; impairment of an existing contract for services; paying of compensation to any person, organization or agency for services of Senior Companion volunteers; and nepotism. Sec. 5-1(b) describes restrictions on State or local government employees who are principally employed in active association with a project. Sec. 5-2 authorizes legal representation for Senior Companion volunteers under certain circumstances.

The Senior Companion Program is identified by No. 72.008 in the Catalog of Federal Domestic Assistance.

Pursuant to section 3(c)(3) of E.O. 12291, entitled "Federal Regulation," the

required review process has been completed by the Director of the Office of Management and Budget.

List of Subjects in 45 CFR Part 1207

Aged, Grant programs—social programs, Reporting and recordkeeping requirements, Volunteers.

It is proposed to revise 45 CFR Part 1207 to read as follows:

PART 1207—SENIOR COMPANION PROGRAM

Subpart A—General

Sec.

1207.1-1 Purpose of the program.

1207.1-2 Definitions.

1207.1-3 Coordination.

Subpart B—Project Development and Funding

1207.2-1 Inquiries.

1207.2-2 Local support.

1207.2-3 Sponsor eligibility and solicitation of proposals.

1207.2-4 Project proposals.

1207.2-5 Review of project proposals.

1207.2-6 Awards.

1207.2-7 Grant management.

1207.2-8 Suspension, termination, denial of refunding.

Subpart C—Project Operations

1207.3-1 Sponsor responsibility.

1207.3-2 Project staff.

1207.3-3 Advisory Council.

1207.3-4 Volunteer station responsibility.

1207.3-5 Senior companions.

1207.3-6 Senior companion assignments.

Subpart D—Non-ACTION Funded Projects

1207.4-1 Memorandum of agreement.

Subpart E—Sanctions and Legal Representation

1207.5-1 Special limitations.

1207.5-2 Legal representation.

Authority: Secs. 211(b), 212, 221, 222, 223, 402(14) and 420 of Pub. L. 93-113, 87 Stat. 402, 403, 404, 407 and 414, sec. 213 of Pub. L. 97-35, 87 Stat. 487, 42 U.S.C. 5011(b), 5012, 5021, 5022, 5023, 5042 (14), 5080 and 5013.

Subpart A—General

§ 1207.1-1 Purpose of the program.

The Senior Companion Program (SCP) is authorized under Title II, Part C, of the Domestic Volunteer Service Act of 1973, as amended (Pub. L. 93-113). The dual purpose of the program is to create part-time stipended volunteer community service opportunities for low-income persons aged 60 and over, and to provide supportive person-to-person services to assist adults having exceptional needs, developmental disabilities or other special needs for companionship.

§ 1207.1-2 Definitions.

Terms used in this part are defined as follows:

"Act" is the Domestic Volunteer Service Act of 1973, as amended (Pub. L. 93-113, 87 Stat. 394, 42 U.S.C. 4951).

"Adult" is any person aged 21 or over.

"Advisory Council" is a group of persons formally organized by the project sponsor for the purpose of advising and supporting the sponsor in operating the project effectively.

"Agency" is the federal ACTION agency.

"Care Plan" is a written plan that establishes goals and activities for each individual companion/client relationship.

"Direct Benefits" are stipends, meals, transportation, annual physical examinations, volunteer insurance, recognition and uniforms included in the budget as *Volunteer Expenses*.

"Director" is the Director of ACTION.

"Exceptional Needs" are one or more physical, emotional, or mental health limitation(s).

"Federally recognized Indian tribal government" means the governing body or a governmental agency of any Indian tribe, band, nation, or other organized group or community (including any Native village as defined in Section 3 of the Alaska Native Claims Settlement Act, 85 Stat. 688) certified by the Secretary of Interior as eligible for the special programs and services provided through the Bureau of Indian Affairs.

"Handbook" is the SCP Handbook No. 4405.91, which contains policies for implementing these regulations.

"Hard-to-reach" individuals are those who are physically or socially isolated because of factors such as language, disability, or inadequate transportation.

"Household" refers to related or unrelated persons living under the same roof and sharing common living expenses.

"In-home" refers to a non-institutional assignment of a Senior Companion in a private residence or a group home.

"OAVP" refers to the Older American Volunteer Programs, which include: the Senior Companion Program, the Foster Grandparent Program, and the Retired Senior Volunteer Program.

"Project" is the locally planned and implemented Senior Companion activity as agreed upon between ACTION and the sponsor.

"Service Area" is a geographically defined area in which Senior Companions are recruited, enrolled, and placed on assignments.

"Service Schedule" is the 20 hours per week that a Senior Companion serves.

"Sponsor" is a public agency or private nonprofit organization which is responsible for the operation of the Senior Companion project.

"Stipend" is a payment to Senior Companions to enable them to serve without cost to themselves.

"Volunteer Station" is a public agency or private nonprofit organization that accepts the responsibility for assignment and supervision of Senior Companions. Volunteers may serve at licensed proprietary health care organizations so long as the project in which they serve is rural. Each volunteer station must be licensed or otherwise certified by the appropriate state or local government.

§ 1207.1-3 Coordination.

The sponsor shall coordinate activities with project-related groups and individuals, including those representing government, industry, labor, volunteer organizations, programs for the aging, including State and Area Agencies on Aging, and other ACTION programs, to facilitate cooperation with existing or planned community services and to develop community support.

Subpart B—Project Development and Funding

§ 1207.2-1 Inquiries.

Inquiries regarding the Senior Companion Program application process, program criteria, or the availability of funds, should be directed to the ACTION State Office serving the inquirer's own state. ACTION headquarters office in Washington, D.C. will assist in directing inquiries to the appropriate State office.

§ 1207.2-2 Local support.

An ACTION grant may be awarded to fund up to 90% of the cost of development and operation of a Senior Companion project. The sponsor is required to contribute at least 10% of the total project cost. Stipend payments in excess of the amount established by ACTION may not be included as part of the local support commitment. In exceptional circumstances the Director may approve assistance for more than 90% of the total project costs if: (a) The project is located in an area where local resources are too limited to provide 10%; or (b) a test project is determined to be of exceptional value, sufficient to warrant Federal support in excess of 90% of the total project cost.

§ 1207.2-3 Sponsor eligibility and solicitation of proposals.

(a) *Sponsor eligibility.* ACTION will award grants only to public agencies or private non-profit organizations in

the United States which have the authority to accept and the capability to administer such grants.

(b) *Solicitation of proposals.* Any eligible organization may file an application for a grant. Applicants may also be solicited by ACTION pursuant to its objective of achieving equitable program resource distribution. Solicited applications are not assured of selection or approval and may have to compete with other solicited or unsolicited applications.

§ 1207.2-4 Project proposals.

(a) Applicants shall use standard forms prescribed by ACTION. ACTION State Offices will provide applicants with guidance and any additional instruction necessary to plan and budget proposed program activities.

(b) New applicants, as well as existing sponsors submitting continuation applications, must comply with State and Area Planning and Development Clearinghouse notification and review procedures set forth in Office of Management and Budget (OMB) Circular A-95.

(c) A potential sponsor must submit one copy of an application for a new SCP project to the State Agency on Aging, which has 45 days to review the application and make recommendations. The State Agency on Aging shall state in writing to ACTION its recommendations and reasons within this time period or will be considered to have waived its rights under this part.

§ 1207.2-5 Review of project proposals.

(a) The ACTION State Office for the applicant's state will review the grant application to ensure that program requirements are complied with and that required documentation has been attached.

(b) If not approved, the application will be returned to the applicant with explanation of ACTION's decision. The unsuccessful applicant may reapply when the inadequacy, if any, found in the application is resolved.

§ 1207.2-6 Awards.

(a) ACTION will, within funds available, award a grant in writing to those applicants whose grant proposals provide the best potential for serving the purpose of the program. The award will be documented by Notice of Grant Award (NGA).

(b) The parties to the NGA are ACTION and the sponsoring organization. The NGA will document the sponsor's commitment to fulfill specific programmatic objectives and financial obligations. It will document

the extent of ACTION's obligation to provide financial support to the sponsor.

(c) A sponsor may receive a grant award for more than one OAVP project.

§ 1207.2-7 Grant management.

(a) Sponsors shall manage grants awarded to them in accordance with these regulations, ACTION Handbook 2650.2, entitled *Grants Management Handbook for Grantees*, and SCP Handbook No. 4405.91. A copy of each document will be furnished the sponsor at the time the initial grant is awarded.

(b) Project support provided under an ACTION grant shall be furnished at the lowest possible cost consistent with the effective operation of the project.

(c) Project costs for which ACTION funds are budgeted must be justified as being essential to project operation.

§ 1207.2-8 Suspension, termination and denial of refunding.

Grant suspension, termination and denial of refunding procedures are set forth in 45 CFR Part 1206, Chapter XII, and in ACTION Handbook 2650.2.

Subpart C—Project Operations

§ 1207.3-1 Sponsor responsibility.

The sponsor is responsible for all programmatic and fiscal aspects of the project and may not delegate or contract this responsibility to another entity. The sponsor has the responsibility to:

(a) Employ, supervise and support a Project Director who will be directly responsible to the sponsor for the management of the project, including selection, training and supervision of project staff;

(b) Provide for the recruitment, assignment, supervision and support of Senior Companions. Special efforts are to be made to recruit and assign persons from minority groups, handicapped and hard-to-reach individuals, and groups in the community which are underrepresented in the project. The sponsor will stress the recruitment and enrollment of persons not already volunteering;

(c) Provide financial and in-kind support to fulfill the project's local share commitment;

(d) Establish, orient, and support an independent SCP Advisory Council;

(e) Provide the Senior Companions with not less than the minimum accident, personal liability, and excess auto liability insurance required by ACTION;

(f) Provide for appropriate recognition of the Senior Companions and their activities;

(g) Establish personnel practices, including provision of position

descriptions for project staff, and service policies for Senior Companions, including grievance and appeal procedures for both volunteers and project staff;

(h) Ensure compliance with ACTION requirements relating to non-discrimination, religious activity, political activity, lobbying, patronage toward persons related by blood or marriage, labor or anti-labor organization or related activities, nondisplacement of employed workers, nonimpairment of contracts, and noncompensation for services;

(i) Maintain project records in accordance with generally accepted accounting practice and provide for the accurate and timely preparation and submission of reports required by ACTION;

(j) Develop Senior Companion service opportunities through volunteer stations;

(k) Negotiate, prior to assignment of Senior Companions, a written Memorandum of Understanding with each volunteer station, identifying sponsor responsibilities, volunteer station responsibilities, and joint responsibilities;

(l) Orient volunteer station staff to the program and its activities;

(m) Provide not less than 40 hours of pre-service orientation to the senior Companions;

(n) Arrange group in-service training for Senior Companions for a minimum of four hours each month;

(o) Provide or arrange for direct benefits (insurance, meals, physical examinations, recognition, stipends, transportation and uniforms, if needed) for the Senior Companions in a timely manner;

(p) Ensure provision for volunteer safety;

(q) Comply with program regulations, policies and procedures prescribed by ACTION;

(r) Ensure that appropriate liability insurance is maintained for owned, non-owned, or hired vehicles used in the project;

(s) Develop a realistic transportation plan for the project based on lowest cost transportation modes; and

(t) Conduct an annual appraisal of volunteers' performance and an annual review of volunteers' income eligibility.

§ 1207.3-2 Project staff.

(a) Project staff are employees of the sponsor and are subject to its personnel policies and practices.

(b) ACTION must concur in writing with the sponsor's selection of a project director before such person is employed or earns pay from grant funds.

(c) The SCP project director shall serve full time and may not be employed or serve concurrently in another capacity, paid or unpaid, during established working hours without prior approval from ACTION.

(d) Compensation levels for project staff, including wages, salaries and fringe benefits, should be comparable to like or similar positions in the sponsor organization and in the community.

§ 1207.3-3 Advisory Council.

An Advisory Council shall be established to advise and assist the project sponsor and staff. There shall be a separate Advisory Council for each Older American Volunteer project administered by the sponsor. When a small number of volunteers are enrolled or other special conditions prevail, this requirement may be waived by the Director of OAVP. The Advisory Council shall:

(a) Advise the project director in the formulation of local policy, planning, and the development of operational procedures and practices consistent with program policies;

(b) Assist the sponsor by promoting community support for the project, advise on personnel actions affecting volunteers and project staff, and assist in developing local financial and in-kind resources;

(c) Include in its membership, when available: community, business and labor leaders, representatives from volunteer stations, public and private agencies, and persons specializing in the fields of aging and voluntarism. In addition, at least one-fourth of the Advisory Council shall be low-income persons aged 60 or over. This group must include Senior Companions as voting members. The sponsor's chief executive or designee, one member of its governing board, and the project director should be members of the Advisory Council but may not be officers of the Advisory Council. The sponsor's chief executive and the project director may not be voting members. The member representing the sponsor's governing board may be a voting member. The provisions of Section 1207.5-1, Nondiscrimination, apply to the Advisory Council;

(d) Meet on a regular schedule and establish its own procedures, including election of officers and terms of office;

(e) Conduct an annual appraisal of project operation and submit a report to the sponsor, which shall be attached to the continuation grant application;

(f) Have an opportunity to advise the sponsor in advance on the selection or termination of project director; and

(g) Ensure procedures are in effect to hear an appeal to actions affecting a Senior Companion adversely.

§ 1207.3-4 Volunteer station responsibility.

(a) Normally the volunteer station is an organization other than the sponsoring organization. The sponsor may function as a Senior Companion station only if the sponsor is: (1) A state organization administering a statewide Senior Companion project where the volunteer station is part of the state organization; (2) a federally-recognized Indian tribal government; or (3) in a rural service area, in which case up to 10% of the enrolled volunteers may be placed directly by the sponsor.

(b) Volunteer station responsibilities include:

(1) Assisting with or arranging for volunteer transportation on or between assignments;

(2) Assisting in the provision of appropriate volunteer recognition;

(3) Developing and monitoring volunteer assignments, selecting adults to be served, supervising the volunteers, assisting the sponsor in matching volunteers to assignments and in providing pre-service orientation and in-service training for the Senior Companions;

(4) Providing for volunteer safety;

(5) Keeping records and preparing reports required by the sponsor; and

(6) Signing, prior to the placement of Senior Companions, a Memorandum of Understanding with the sponsor establishing working relationships and mutual responsibilities, and detailing the responsibilities outlined above as well as other agreed upon responsibilities, including the particulars of the volunteers' supervision.

(i) When Senior Companions are to serve in private homes, the Memorandum of Understanding shall also require that the volunteer station obtain a Letter of Agreement from the person to be served, or the person legally responsible for that person, authorizing or requesting volunteer service in the home and indicating what specific activities are to be performed.

(ii) The Memorandum of Understanding is to be reviewed and, as appropriate, changed annually. The Memorandum may be amended at any time by mutual agreement and must be signed and dated annually to indicate that review and update, if needed, have been accomplished.

§ 1207.3-5 Senior companions.

(a) *Eligibility.* (1) Senior Companions shall be 60 years of age or older, no

longer in the regular work force, determined by a physical examination to be capable of serving adults with exceptional or special needs without detriment to either themselves or the adult served, and willing to accept supervision as required.

(2) Eligibility to be a Senior Companion may not be restricted on the basis of education, experience, citizenship, race, color, creed, belief, sex, national origin, handicap, or political affiliation.

(3) To be enrolled, a Senior Companion cannot have an annual income, from all sources, exceeding the ACTION income eligibility guideline for the state in which he or she resides. The ACTION income eligibility guideline for each state is the higher amount of either: (i) 125% of the poverty line as set forth in Section 825 of the Economic Opportunity Act of 1964, as amended by Pub. L. 92-424 (42 U.S.C. 2971d), or (ii) 100% of the poverty line plus the amount the state supplements Federal Supplemental Security Income (SSI). In cases where a Senior Companion is a member of a household in which other persons share common expenses, his or her income eligibility is determined by the combined income of members of the household.

(4) Once enrolled, a Senior Companion shall remain eligible to serve and to receive a stipend as long as his or her income does not exceed the prescribed ACTION income eligibility guideline by 20%. Income eligibility shall be reviewed annually by the sponsor.

(5) Recruitment and selection of a Senior Companion may not be based on any requirement of employment experience, formal education or ownership of, or access to, a vehicle.

(b) *Terms of service.* (1) Senior Companions serve a total of twenty hours a week, usually five days a week. Travel time between the volunteer's home and place of assignment may not be considered part of the service schedule and is not stipended. Travel time between individual assignments is a part of the service schedule. Meal time may be part of the service schedule only if meals are taken with the individual served, and the taking of meals together is deemed by the sponsor and the volunteer station to be beneficial to the person served.

(2) Senior Companions are volunteers, not employees, of the sponsor.

(c) *Direct benefits.* The total of direct benefits for Senior Companions, including stipends, insurance, transportation, meals, physical examinations, recognition, and uniforms if appropriate, shall be a sum equal to at

least 90% of the amount of the ACTION Federal share of the grant. Federal and non-federal resources can be used to make up this sum. Direct benefits may not be subject to any tax or charge or be treated as wages or compensation for the purposes of unemployment insurance, temporary disability, retirement, public assistance, or similar benefit payments or minimum wage laws. Direct benefits include:

(1) *Insurance.* Senior Companions shall be provided with the ACTION specified minimum levels of accident insurance, personal liability insurance and, when appropriate, excess automobile liability insurance.

(i) *Accident insurance.* Accident insurance shall cover Senior Companions for personal injury during travel between their homes and places of assignment, during their volunteer service, during meal periods while serving as a volunteer, and while attending project-sponsored activities, such as recognition activities, orientation and Advisory Council meetings.

Protection shall be provided against claims in excess of any benefits or services for medical care or treatment available to the volunteer from other sources, including:

(A) Health insurance coverage;

(B) Other hospital or medical service plans;

(C) Any coverage under labor-management trustee plans, union welfare plans, employer organization plans, or employee benefit organization plans; and

(D) Coverage under any governmental programs, or coverage provided by any statute.

When benefits are provided in the form of services rather than by cash payments, the reasonable cash value of each service rendered shall be considered in determining the applicability of this provision. The benefits payable under a plan shall include the benefits that would have been payable had a claim been duly made therefor. The benefits payable shall be reduced to the extent necessary so that the sum of such reduced benefits and all the benefits provided for by any other plan shall not exceed the total expenses incurred by the volunteer.

(ii) *Personal liability insurance.*

Protection shall be provided against claims in excess of protection provided by other insurance.

(iii) *Excess automobile liability insurance.* Protection shall be provided against claims in excess of the greater of either:

(A) Liability insurance volunteers carry on their own automobiles, or

(B) The limits of the applicable state financial responsibility law, or

(C) In the absence of a state financial responsibility law, levels of protection to be determined by ACTION for each person, each accident, and for property damage.

(2) *Meals.* Within the limits of available resources and project policy, Senior Companions will be provided or will receive assistance with the cost of meals taken during their service schedule.

(3) *Physical examinations.* Senior Companions are required to have a physical examination prior to assignment and annually thereafter.

(4) *Appropriate recognition* will be provided for Senior Companions.

(5) *Stipends.* A Senior Companion will receive a stipend in an amount determined by ACTION and payable in regular installments. The minimum amount of the stipend is set by law and may be adjusted by the Director from time to time. When more than one eligible member of a household serves as a Senior Companion or Foster Grandparent, only one member shall be entitled to receive a stipend. All income eligible members in such cases shall be entitled to other direct benefits. Only in cases where enrolled Senior Companions or Foster Grandparents marry may each continue to receive a stipend.

(6) *Transportation.* Senior Companions shall be provided transportation or receive assistance with the cost of transportation to and from volunteer assignments and official project activities, including orientation, training, advisory council meetings and recognition events. Reimbursement will be within the limits of available resources and project policy. Project funds may not be utilized to reimburse Senior Companions for transportation provided for or on behalf of clients.

§ 1207.3-6 Senior companion assignments.

(a) Assignments and activities must involve person-to-person relationships with the individuals served and may not include service to the volunteer station.

(b) Individuals served by Senior Companions must be adults, primarily older adults, who have one or more physical, emotional, or mental health limitations and are in need of assistance to achieve and maintain their highest level of independent living.

Subpart D—Non-ACTION Funded Projects

§ 1207.4-1 Memorandum of agreement.

(a) If an eligible agency or organization wishes to sponsor a project without ACTION funding, and wishes to receive technical assistance and materials from ACTION, it must sign a Memorandum of Agreement with ACTION identifying mutual responsibilities and certifying its intent to comply with ACTION regulations.

(b) A non-ACTION funded project sponsor's noncompliance with the Memorandum of Agreement may result in suspension or termination of ACTION's technical assistance to the project.

(c) Termination of the agreement by either the project sponsor or ACTION will result in loss of the tax exempt status of volunteer direct benefits allowable to Senior Companions and loss of coverage by the statutory provision that receipt of the stipend will not affect the volunteers' eligibility for any governmental assistance.

(d) Entry into a Memorandum of Agreement with a sponsoring agency which does not receive ACTION funds will not, under any circumstances, create a financial obligation on the part of ACTION for costs associated with the project including increases in required payments to volunteers which may result from changes in the Act or in ACTION regulations.

Subpart E—Sanctions and Legal Representation

§ 1207.5-1 Special limitations.

(a) *Political activities.* (1) No part of any grant shall be used to finance, directly or indirectly, any activity to influence the outcome of any election to public office, or any voter registration activity.

(2) No project shall be conducted in a manner involving the use of funds, the provision of services, or the employment or assignment of personnel in a manner supporting or resulting in the identification of such project with (i) any partisan or nonpartisan political activity associated with a candidate, or contending faction or group, in an election or, (ii) any activity to provide voters or prospective voters with transportation to the polls or similar assistance in connection with any such election, or (iii) any voter registration activity.

(3) No Senior Companion or employee of a sponsor or volunteer station may take any action, when serving in such capacity, with respect to a partisan or nonpartisan political activity that would

result in the identification or apparent identification of the Senior Companion Program with such activity.

(4) No grant funds may be used by the sponsor in any activity for the purpose of influencing the passage or defeat of legislation or proposals by initiative petition, except

(i) in any case in which a legislative body, a committee of a legislative body, or a member of a legislative body requests a Senior Companion, a sponsor chief executive, his or her designee, or project staff to draft, review or testify regarding measures or to make representation to such legislative body, committee or member, or (ii) in connection with an authorization or appropriations measure directly affecting the operation of the Senior Companion Program.

Prohibitions on Electoral and Lobbying Activities are fully set forth in 45 CFR Part 1228 and in ACTION Handbook 2850.2.

(b) *Restrictions on State or local government employees.* If the sponsor is a State or local government agency which received a grant from ACTION, certain restrictions contained in Chapter 15 of Title 5 of the United States Code are applicable. They are related to persons who are principally employed in activities associated with the project. The restrictions are not applicable to employees of educational or research institutions. An employee subject to these restrictions may not:

(1) Use his/her official authority or influence for the purpose of interfering with or affecting the result of an election or nomination for office; or

(2) Directly or indirectly coerce, attempt to coerce, command or advise a State or local officer or employee to pay, lend, or contribute anything of value to a political party, committee, organization, agency, or person for a political purpose; or

(3) Be a candidate for elective office, except in a nonpartisan election. "Nonpartisan election" means an election at which none of the candidates is to be nominated or elected as representing a political party any of whose candidates for Presidential elector received votes in the last preceding election at which Presidential electors were selected.

(c) *Religious activities.* Senior Companions and project staff funded by ACTION shall not give religious instruction, conduct worship services or engage in any form of proselytization as part of their duties.

(d) *Nondiscrimination.* For purposes of this subpart, and for purposes of Title VI of the Civil Rights Act of 1964 (42

U.S.C. 2000 d *et seq.*), section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and the Age Discrimination Act of 1975 (Pub. L. 94-135, Title III; 42 U.S.C. 6101 *et seq.*), any program, project, or activity to which volunteers are assigned under this Act shall be deemed to be receiving federal financial assistance.

(1) No person with responsibility in the operation of a project shall discriminate with respect to any activity or program because of race, creed, belief, color, national origin, sex, age, handicap, or political affiliation.

(2) Sponsors are required to take affirmative action to overcome the effects of prior discrimination. Even in the absence of prior discrimination, a sponsor may take affirmative action to overcome conditions which resulted in limiting participation.

(3) No person in the United States shall on the ground of sex be excluded from participation in, be denied the benefits of, be subjected to discrimination under, or be denied employment in connection with a Senior Companion project.

(e) *Labor and anti-labor activity.* No grant funds shall be directly or indirectly utilized to finance labor or anti-labor organization or related activity.

(f) *Nonreplacement of employed workers.* A Senior Companion may not perform any service or duty or engage in any activity which would otherwise be performed by an employed worker or which would supplant the hiring of employed workers.

(g) *Nonimpairment of contracts.* A Senior Companion may not perform any service, or duty, or engage in any activity which impairs an existing contract for service. The term "contract for service" includes but is not limited to contracts, understandings, and arrangements, either written or oral, to provide professional, managerial, technical, or administrative services.

(h) *Noncompensation for services.* No person, organization, or agency shall request or receive any compensation for services of Senior Companions.

(i) *Nepotism.* Persons selected for projects staff positions may not be related by blood or marriage to other project staff, sponsor staff or officers, or members of the sponsor Board of Directors, unless there is concurrence by the Advisory Council, with notification to ACTION.

(j) *Volunteer separation.* A sponsor may separate a volunteer for cause, including, but not limited to, extensive or unauthorized absences, misconduct, inability to perform assignments or

Having income in excess of the eligibility level established by ACTION.

§ 1207.5-2 Legal representation.

Counsel may be employed and counsel fees, court costs, bail, and other expenses incidental to the defense of a Senior Companion may be paid in a criminal, civil or administrative proceeding, when such a proceeding arises directly out of the performance of the Senior Companion activities. 45 CFR Part 1220 establishes the circumstances under which ACTION may pay such expenses.

Signed at Washington, D.C., this 13th day of September 1982.

Thomas W. Finken,
Director, ACTION.

[FR Doc. 82-30865 Filed 11-4-82; 8-45 am]
BILLING CODE 9050-01-01

45 CFR Part 1208

Foster Grandparent Program

AGENCY: ACTION.

ACTION: Proposed rule revision.

SUMMARY: This proposed revision is intended to clarify and update existing Foster Grandparent regulations relating to project development and funding, project operations, non-ACTION funded projects, and special limitations affecting aspects of program operations. The text is simplified and reduced wherever possible.

DATE: Comments must be received by December 2, 1982.

ADDRESS: Written comments should be sent to: Director, Older American Volunteer Programs, ACTION, 806 Connecticut Avenue, NW., M-1006, Washington, D.C. 20525.

FOR FURTHER INFORMATION CONTACT: Betty H. Brake, (202) 254-7310.

SUPPLEMENTARY INFORMATION: ACTION has determined that this regulation is not a major rule as defined by Executive Order 12291. The regulations will not result in any of the following:

- (1) Any effect on the economy;
- (2) Any increase in costs or prices for consumers, individuals industries, Federal, State or local government agencies or geographic regions; or
- (3) Any adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States based enterprises to compete with foreign-based enterprises in domestic or export markets.

Subpart A—General

1. Proposed Sec. 1-1 is amended to more precisely define the purpose of the

Program. Sec. 1-2 is expanded to include definitions of terms used in the proposed regulations. Proposed Sec. 1-3 is added to ensure cooperation with existing or planned community services.

Subpart B—Project Development and Funding

2. The Subpart B heading has been changed from "Project Sponsors" to "Project Development and Funding" to more accurately describe contents of the section. The proposed change tracks the grant application process from applicant inquiry to final action.

3. Proposed Sec. 2-1 directs inquiries regarding the FGP grant application process to the appropriate ACTION State Office. It replaces Sec. 2-2 of current regulations and is meant to clarify the inquiry process for potential sponsors.

4. Proposed Sec. 2-2, "Local Support", replaces a portion of Sec. 2-1 of current regulations and prohibits the use of excess stipend payments as part of the local share of project costs.

5. Proposed Sec. 2-3, "Sponsor Eligibility and Solicitation of Proposals" replaces a like numbered section in current regulations entitled "State Agency on Aging and Community Action Participation". The new section includes reference to all eligible applicants.

6. Proposed Sec. 2-4, "Project Proposals"; Sec. 2-5, "Review of Project Proposals"; Sec. 2-6, "Awards"; Sec. 2-7, "Grant Management" and Sec. 2-8, "Suspension, Termination and Denial of Refunding" replace current Sections 2-4, "Responsibilities", 2-5, "Project Staff" and 2-6, "Suspension or Termination of a Grant and Denial of Application for Refunding". The proposed revisions describe the grant process in a more comprehensive manner and exclude matters more appropriately treated in subsequent sections.

Subpart C—Project Operations

7. This subpart is completely revised. Current Sec. 2-4 becomes new Sec. 3-1, "Sponsor Responsibility".

In addition to clarification of the sponsor's responsibilities, this section also replaces current Sec. 3-5, "Memorandum of Understanding". Significant proposed changes or additions under this subpart include the following:

- a. Sec. 3-4 increases from 5% to 10% the number of enrolled volunteers who may be placed directly by the sponsor.
- b. Sec. 3-5(a)(3) revised the basis for determining Foster Grandparent income eligibility levels.
- c. Sec. 3-5(c) incorporates policy requiring that volunteer direct benefits

shall be an amount equal to at least 90% of the ACTION grant award.

d. Sec. 3-5(c)(1)(f) requires portaf-to-portal accident insurance for Foster Grandparents.

e. Sec. 3-5(c)(5) clarifies policy regarding eligibility of both members of a married couple serving as Foster Grandparents.

f. Sec. 3-4(b)(6)(i) requires individualized care plans for Foster Grandparents to follow in each in-home assignment to a child.

g. Sec. 3-7(b) stipulates requirement for Foster Grandparent concurrence with their respective placements.

h. Sec. 3-7(c) states preferability of assigning Foster Grandparents to young children.

i. Sec. 3-7(d) incorporates statutory change permitting Foster Grandparents under certain conditions to serve mentally retarded persons 21 years of age or older.

Subpart D—Non-ACTION-Funded Projects

8. Replaces current "Subpart D—Volunteers", all provisions of which, excepting Sec. 4-4, are covered under new Subpart C. Proposed Subpart D allows the development of a non-ACTION funded Foster Grandparent project under specific conditions.

Subpart E—Sanctions and Legal Representation

9. Current "Subpart E—General" is deleted. Its content, excepting Sec. 5-5, is incorporated in preceding proposed changes. Proposed new Subpart E prescribes special limitations on political and religious activities; prohibitions on discrimination, funding of labor or anti-labor organization or related activity, displacement of employed workers by Foster Grandparent volunteers, non-impairment of an existing contract for service, prohibition of compensation of compensation to any person, organization or agency for services of Foster Grandparent volunteers, and nepotism. Sec. 5-1(b) describes restrictions on State or local government employees who are principally employed in active association with a project. Sec. 5-2 authorized legal representation for Foster Grandparent volunteers under certain circumstances.

The Foster Grandparent Program is identified by No. 72.001 in the Catalog of Federal Domestic Assistance.

Pursuant to Section 3(c)3 of E.O. 12291 entitled "Federal Regulation," the required review process has been completed by the Director of the Office of Management and Budget.

List of Subjects in 45 CFR Part 1208:

Aged, Grant programs/social programs, Reporting and recordkeeping requirements, Volunteers.

45 CFR Part 1208 is proposed to be revised to read as follows:

PART 1208—FOSTER GRANDPARENT PROGRAM**Subpart A—General****Sec.**

1208.1-1 Purpose of the program.

1208.1-2 Definitions.

1208.1-3 Coordination.

Subpart B—Project Development and Funding

1208.2-1 Inquiries.

1208.2-2 Local support.

1208.2-3 Sponsor eligibility and solicitation of proposals.

1208.2-4 Project proposals.

1208.2-5 Review of project proposals.

1208.2-6 Awards.

1208.2-7 Grant management.

1208.2-8 Suspension, termination, denial of refunding.

Subpart C—Project Operations

1208.3-1 Sponsor responsibility.

1208.3-2 Project staff.

1208.3-3 Advisory Council.

1208.3-4 Volunteer station responsibility.

1208.3-5 Foster grandparents.

1208.3-6 Foster grandparent assignments.

1208.3-7 Children served.

Subpart D—Non-ACTION Funder Projects

1208.4-1 Memorandum of agreement.

Subpart E—Sanctions and Legal Representation

1208.5-1 Special limitations.

1208.5-2 Legal representation.

Authority: Secs. 211(a), 212, 221, 222, 223, 402(14) and 420 of Pub. L. 93-113, 87 Stat. 402, 403, 404, 407 and 414, 42 U.S.C. 5011(a), 5012, 5021, 5022, 5023(14) and 5080.

Subpart A—General**§ 1208.1-1 Purpose of the program.**

The Foster Grandparent Program (FGP) is authorized under Title II, Part B, of the Domestic Volunteer Service Act of 1973, as amended (Pub. L. 93-113). The dual purpose of the program is to provide opportunities for low-income persons aged 60 or over to give supportive person-to-person service in health, education, welfare or related settings to help alleviate the physical, mental, or emotional problems of children having exceptional or special needs.

§ 1208.1-2 Definitions.

Terms used in this part are defined as follows:

"Act" is the Domestic Volunteer Service Act of 1973, as amended (Pub. L. 93-113, 87 Stat. 394, 42 U.S.C. 4951).

"Advisory Council" is a group of persons formally organized by the project sponsor for the purpose of advising and supporting the sponsor in operating the project effectively.

"Agency" is the federal ACTION Agency.

"Child" is any individual under 21 years of age.

"Children having exceptional needs" are those who are developmentally disabled such as those who are mentally retarded, autistic, have cerebral palsy or epilepsy or are visually handicapped, speech impaired, hearing impaired, orthopedically impaired, multi-handicapped, emotionally disturbed or have a language disorder, specific learning disability or other significant health impairment. Existence of a child's exceptional need shall be verified by an appropriate professional, such as a physician, psychiatrist, psychologist, speech therapist or educator before a Foster Grandparent is assigned to the child.

"Children with special needs" includes those who are: abused or neglected; in need of foster care; status offenders and other children or youth, as further defined in Title III of the Juvenile Justice Act Amendments of 1977; certain teen-age parents; and children in need of protective intervention in their homes. Existence of a child's special need shall be verified by an appropriate professional before a Foster Grandparent is assigned to the child.

"Direct Benefits" are stipends, meals, transportation, annual physical examinations, volunteer insurance, recognition and uniforms included in the budget as *Volunteer Expenses*.

"Director" is the Director of ACTION.

"Federally recognized Indian tribal government" means the governing body or a governmental agency of any Indian tribe, band, nation, or other organized group or community (including any Native village as defined in Section 3 of the Alaska Native Claims Settlement Act, 85 Stat. 688) certified by the Secretary of the Interior as eligible for the special programs and services provided through the Bureau of Indian Affairs.

"Handbook" is the FGP Handbook No. 4405.90 which contains policies for implementing these regulations.

"Hard-to-reach" individuals are those who are physically or socially isolated because of factors such as language, disability, or inadequate transportation.

"Household" refers to related or unrelated persons living under the same roof and sharing common living expenses.

"Individual Care or Treatment Plan" is a written description of a Foster

Grandparent's assignment with a child. The plan defines the goals for the child to be attained through the relationship with a Foster Grandparent and the specific activities to be performed by the Foster Grandparent in the assignment.

"In-home" refers to non-institutional assignment of a Foster Grandparent in a private residence, a foster home, or a group home.

"OAVP" refers to the Older American Volunteer Programs, which include: the Foster Grandparent Program, the Retired Senior Volunteer Program, and the Senior Companion Program.

"Parent" is a natural parent or a person acting in place of a natural parent, such as a child's natural grandparent, or a step-parent with whom the child lives. The term also includes otherwise unrelated individuals who are legally responsible for a child's welfare.

"Project" is the locally planned and implemented Foster Grandparent Program activity as agreed upon between ACTION and the sponsor.

"Service Area" is a geographically defined area in which Foster Grandparents are recruited, enrolled, and placed on assignments.

"Service Schedule" is the 20 hours per week that a Foster Grandparent serves.

"Sponsor" is a public agency or private nonprofit organization which is responsible for the operation of the Foster Grandparent project.

"Stipend" is a payment to Foster Grandparents to enable them to serve without cost to themselves.

"Volunteer Station" means a public agency or private nonprofit organization that accepts the responsibility for assignment and supervision of Foster Grandparents. Volunteer stations may assign volunteers to children with special or exceptional needs in health, education, welfare or related settings such as private homes, hospitals, homes for dependent and neglected children, or similar establishments.

Each volunteer station must be licensed or otherwise certified by the appropriate state or local government.

§ 1208.1-3 Coordination.

The sponsor shall coordinate activities with project-related groups and individuals, including those representing government, industry, labor, volunteer organizations, programs for children, programs for the aging, including State and Area Agencies on Aging, and other ACTION programs, to facilitate cooperation with existing or planned community services and to develop community support.

Subpart B—Project Development and Funding**§ 1208.2-1 Inquiries.**

Inquiries regarding the Foster Grandparent Program application process, program criteria, or the availability of funds, should be directed to the ACTION State Office serving the inquirer's own state. ACTION headquarters office in Washington, D.C. will assist in directing inquiries to the appropriate state office.

§ 1208.2-2 Local support.

An ACTION grant may be awarded to fund up to 90% of the cost of development and operation of a Foster Grandparent project. The sponsor is required to contribute at least 10% of the total project cost. Stipend payments in excess of the amount established by ACTION may not be included as part of the local support commitment. In exceptional circumstances the Director may approve assistance for more than 90% of the total project cost if:

- (a) The project is located in an area where local resources are too limited to provide 10%; or
- (b) A test project is determined to be of exceptional value, sufficient to warrant Federal support in excess of 90% of the total project cost.

§ 1208.2-3 Sponsor eligibility and solicitation of proposals.

(a) *Sponsor eligibility.* ACTION will award grants only to public agencies and private non-profit organizations in the United States which have the authority to accept and the capability to administer such grants.

(b) *Solicitation of Proposals.* (1) Any eligible organization may file an application for a grant. Applicants may also be solicited by ACTION pursuant to its objective of achieving equitable program resource distribution. Solicited applications are not assured of selection or approval and may have to compete with other solicited or unsolicited applications.

(2) Grants for projects to be carried out over an area in a state more comprehensive than one community shall be awarded to the State Agency on Aging unless:

- (i) The state has not established or designated such an agency, or
- (ii) Such agency has been afforded at least 45 days to review and make recommendations on a prospective sponsor's application.

(3) Grants for projects to be carried out entirely in a community served by a Community Action Agency shall be awarded to that agency unless that agency and the State Agency on Aging

have been afforded at least 45 days to review and make recommendations on a prospective sponsor's application.

(4) In the event that the State Agency on Aging or the Community Action Agency is not awarded the applicable grant, any application that is approved will contain or be supported by satisfactory assurances that the project has been developed and will, to the extent feasible, be conducted in consultation with, or with the participation of, such agencies.

§ 1208.2-4 Project proposals.

(a) Applicants shall use standard forms prescribed by ACTION. ACTION State Offices will provide applicants with guidance and any additional instruction necessary to plan and budget proposed program activities.

(b) New applicants, as well as existing sponsors submitting continuation applications, must comply with State and Area Planning and Development Clearinghouse notification and review procedures set forth in Office of Management and Budget (OMB) Circular A-85.

(c) A potential sponsor must submit one copy of an application for a new FGP project to the State Agency on Aging, which has 45 days to review the application and make recommendations. The State Agency on Aging shall state in writing to ACTION its recommendations and reasons within this time period or will be considered to have waived its rights under this part.

§ 1208.2.5 Review of project proposals.

(a) The ACTION State Office for the applicant's state will review the grant application to ensure that program requirements are complied with and that required documentation has been attached.

(b) If not approved, the application will be returned to the applicant with explanation of ACTION's decision. The unsuccessful applicant may reapply when the inadequacy, if any, found in the application is resolved.

§ 1208.2-6 Awards.

(a) ACTION will, within funds available, award a grant in writing to those applicants whose grant proposals provide the best potential for serving the purpose of the program. The award will be documented by *Notice of Grant Award (NGA)*.

(b) The parties to the NGA are ACTION and the sponsoring organization. The NGA will document the sponsor's commitment to fulfill specific programmatic objectives and financial obligations. It will document

the extent of ACTION's obligation to provide financial support to the sponsor.

(c) A sponsor may receive a grant award for more than one OAVP project.

§ 1208.2-7 Grant management.

(a) Sponsors shall manage grants awarded to them in accordance with these regulations, ACTION Handbook 2650.2 entitled, *Grants Management Handbook for Grantees*, and the FGP Handbook No. 4405.90. A copy of each document will be furnished to the sponsor at the time the initial grant is awarded.

(b) Project support provided under an ACTION grant shall be furnished at the lowest possible cost consistent with the effective operation of the project.

(c) Project costs for which ACTION funds are budgeted must be justified as being essential to project operation.

§ 1208.2-8 Suspension, termination and denial of refunding.

Grant suspension, termination and denial of refunding procedures are set forth in 45 CFR Part 1208, Chapter XII, and in ACTION Handbook 2650.2.

Subpart C—Project Operations**§ 1208.3-1 Sponsor responsibility.**

The sponsor is responsible for all programmatic and fiscal aspects of the project and may not delegate or contract this responsibility to another entity. The sponsor has the responsibility to:

(a) Employ, supervise and support a Project Director, who will be directly responsible to the sponsor for the management of the project, including selection, training and supervision of project staff;

(b) Provide for the recruitment, assignment, supervision and support of Foster Grandparents. Special efforts are to be made to recruit and assign persons from minority groups, handicapped and hard-to-reach individuals, and groups in the community which are underrepresented in the project. The sponsor will stress the recruitment and enrollment of persons not already volunteering;

(c) Provide financial and in-kind support to fulfill the project's local share commitment;

(d) Establish, orient and support an independent FGP Advisory Council;

(e) Provide Foster Grandparents with not less than the minimum accident, personal liability, and excess auto liability insurance required by ACTION;

(f) Provide for appropriate recognition of the Foster Grandparents and their activities;

(g) Establish personnel practices, including provision of position

descriptions for project staff, and service policies for Foster Grandparents, including grievance and appeal procedures for both volunteers and project staff;

(h) Ensure compliance with ACTION requirements relating to nondiscrimination, religious activity, political activity, lobbying, patronage toward persons related by blood or marriage, labor or anti-labor organization or related activities, nondisplacement of employed workers, nonimpairment of contracts, and noncompensation for services;

(i) Maintain project records in accordance with generally accepted accounting practice and provide for the accurate and timely preparation and submission of reports required by ACTION;

(j) Develop Foster Grandparent service opportunities through volunteer stations;

(k) Negotiate, prior to assignment of Foster Grandparents, a written Memorandum of Understanding with each volunteer station, identifying sponsor responsibilities, volunteer station responsibilities and joint responsibilities;

(l) Orient volunteer station staff to the Program and its activities;

(m) Provide not less than 40 hours of re-service orientation to Foster Grandparents;

(n) Arrange group in-service training for Foster Grandparents for a minimum of four hours each month;

(o) Provide or arrange for direct benefits (insurance, meals, physical examinations, recognition, stipends, transportation and uniforms, if needed) for the Foster Grandparents in a timely manner;

(p) Ensure provision for volunteer safety;

(q) Comply with program regulations, policies and procedures prescribed by ACTION;

(r) Ensure that appropriate liability insurance is maintained for owned, non-owned, or hired vehicles used in the project;

(s) Develop a realistic transportation plan based on the lowest cost transportation modes; and

(t) Conduct an annual appraisal of volunteers' performance and an annual review of volunteers' income eligibility.

§ 1208.3-2 Project staff.

(a) Project staff are employees of the sponsor and are subject to its personnel policies and practices.

(b) ACTION must concur in writing with the sponsor's selection of a project director before such person is employed and must pay from grant funds.

(c) The FGP Project Director shall serve full time and may not be employed or serve concurrently in another capacity, paid or unpaid, during established working hours, without prior approval from ACTION. Only when ACTION has approved joint OAVP sponsorship may be Project Director concurrently direct another OAVP project or when the size of the project does not justify a full time director and a part time director is utilized.

(d) Compensation levels for project staff, including wages, salaries and fringe benefits, should be comparable to like or similar positions in the sponsor organization and in the community.

§ 1208.3-3 Advisory council.

An Advisory Council shall be established to advise and assist the project sponsor and staff. There shall be a separate Advisory Council for each Older American Volunteer project administered by the sponsor. When a small number of volunteers are enrolled or other special conditions prevail, this requirement may be waived by the Director, OAVP. The Advisory Council shall:

(a) Advise the project director in the formulation of local policy, planning, and the development of operational procedures and practices consistent with program policies;

(b) Assist the sponsor by promoting community support for the project, advise on personnel actions affecting volunteers and project staff, and assist in developing local financial and in-kind resources;

(c) Include in its membership, when available: Community, business and labor leaders, representatives from volunteer stations, public and private agencies, and persons specializing in the fields of aging, child development and voluntarism. In addition, at least one-fourth of the Advisory Council shall be low-income persons aged 60 or over. This group must include Foster Grandparents as voting members. The sponsor's chief executive or designee, one member of its governing board, and the project director should be members of the Advisory Council but may not be officers of the Advisory Council. The sponsor's chief executive and the project director may not be voting members. The member representing the sponsor's governing board may be a voting member. The provisions of Section 1208.5-1(d), Nondiscrimination, apply to the Advisory Council;

(d) Meet on a regular schedule and establish its own procedures, including election of officers and terms of office;

(e) Conduct an annual appraisal of project operation and submit a report to

the sponsor, which shall be attached to the continuation grant application;

(f) Have an opportunity to advise the sponsor in advance on the selection or termination of project director; and

(g) Ensure procedures are in effect to hear an appeal to actions affecting a Foster Grandparent adversely.

§ 1208.3-4 Volunteer station responsibility.

(a) Normally the volunteer station is an organization other than the sponsoring organization. The sponsor may function as a Foster Grandparent volunteer station only if the sponsor is:

(1) A state organization administering a statewide Foster Grandparent project where the volunteer station is part of the state organization, (2) a Federally recognized Indian tribal government, or (3) in a rural service area; in which case, up to 10% of the enrolled volunteers may be placed directly by the sponsor.

(b) Volunteer Station responsibilities include:

(1) Providing or arranging for volunteer transportation on or between assignments;

(2) Assisting in the provision of appropriate volunteer recognition;

(3) Developing and monitoring volunteer assignments, selecting children to be served, supervising the volunteers, assisting the sponsor in matching volunteers to assignments and in providing pre-service orientation and in-service training for the Foster Grandparents;

(4) Providing for volunteer safety;

(5) Keeping records and preparing reports required by the sponsor; and

(6) Signing, prior to the placement of Foster Grandparents, a Memorandum of Understanding with the sponsor establishing working relationships and mutual responsibilities, and detailing the responsibilities outlined above, as well as other agreed upon responsibilities, including the particulars of the volunteers' supervision.

(i) When Foster Grandparents are to serve in private homes, the Memorandum of Understanding shall also require that the volunteer station obtain a Letter of Agreement from the child's parent(s) authorizing or requesting volunteer service in the home and indicating what specific activities are to be performed. This agreement will constitute an individual care plan and will be followed for the child served by a Foster Grandparent in an in-home placement.

(ii) All Memorandums of Understanding are to be reviewed and, as appropriate, updated annually. It may be amended at any time by mutual

agreement and must be signed and dated annually to indicate that review and update, if needed, have been accomplished.

§ 1208.3-5 Foster grandparents.

(a) *Eligibility.* (1) Foster Grandparents shall be 60 years of age or older, no longer in the regular work force, determined by a physical examination to be capable of serving children with exceptional or special needs without detriment to either themselves or the children served, and willing to accept supervision as required.

(2) Eligibility to be a Foster Grandparent may not be restricted on the basis of education, experience, citizenship, race, color, creed, belief, sex, national origin, handicap, or political affiliation.

(3) To be enrolled, a Foster Grandparent cannot have an annual income from all sources, exceeding the ACTION income eligibility guideline for the state in which he or she resides. The ACTION income eligibility guideline for each state is the higher amount of either: (i) 125% of the poverty line as set forth in Section 625 of the Economic Opportunity Act of 1964, as amended by Public Law 92-424 (42 U.S.C. 2971d), or (ii) 100% of the poverty line plus the amount the state supplements Federal Supplemental Security Income (SSI).

(4) In cases where a Foster Grandparent is a member of a household in which other persons share common expenses, his or her income eligibility is determined by the combined income of members of the household.

(5) Once enrolled, a Foster Grandparent shall remain eligible to serve and to receive a stipend as long as his or her income does not exceed the prescribed ACTION income eligibility guideline by 20%. Income eligibility shall be reviewed annually by the sponsor.

(6) Recruitment and selection of a Foster Grandparent may not be based on any requirement of employment experience, formal education or ownership of, or access to, a vehicle.

(b) *Terms of service.* (1) Foster Grandparents serve a total of twenty hours a week, usually five days a week. Travel time between the volunteer's home and place of assignment may not be considered part of the service schedule and is not stipended. Travel time between individual assignments is a part of the service schedule. Meal time may be part of the service schedule only if meals are taken with the individual served, and the taking of meals together is deemed by the sponsor and the volunteer station to be beneficial to the child served.

(2) Foster Grandparents are volunteers, not employees, of the sponsor.

(c) *Direct benefits.* The total of direct benefits for Foster Grandparents, including stipends, insurance, transportation, meals, physical examinations, recognition, and uniforms if appropriate, shall be a sum equal to at least 90% of the amount of the ACTION federal share of the grant award. Federal and non-federal resources can be used to make up this sum. Direct benefits may not be subject to any tax or charge or be treated as wages or compensation for the purposes of unemployment insurance, temporary disability, retirement, public assistance, or similar benefit payments or minimum wage laws. Direct Benefits include:

(1) *Insurance:* Foster Grandparents shall be provided with the ACTION-specified minimum levels of accident insurance, personal liability insurance and, when appropriate, excess automobile liability insurance.

(i) *Accident insurance:* Accident insurance shall cover Foster Grandparents for personal injury during travel between their homes and places of assignment, during their volunteer service, during meal periods while serving as a volunteer, and while attending project-sponsored activities, such as recognition activities, orientation and Advisory Council meetings. Protection shall be provided against claims in excess of any benefits or services for medical care or treatment available to the volunteer from other sources, including:

(A) Health insurance coverage;

(B) Other hospital or medical service plans;

(C) Any coverage under labor-management trusted plans, union welfare plans, employer organization plans, or employee benefit organization plans; and

(D) Coverage under any governmental programs, or coverage provided by any statute.

When benefits are provided in the form of services rather than by cash payments, the reasonable cash value of each service rendered shall be considered in determining the applicability of this provision. The benefits payable under a plan shall include the benefits that would have been payable had a claim been duly made therefor. The benefits payable shall be reduced to the extent necessary so that the sum of such reduced benefits and all the benefits provided for by any other plan shall not exceed the total expenses incurred by the volunteer.

(ii) *Personal Liability Insurance:* Protection shall be provided against claims in excess of protection provided by other insurance.

(iii) *Excess Automobile Liability Insurance:* Protection shall be provided against claims in excess of the greater of either:

(A) Liability insurance volunteers carry on their own automobiles, or

(B) The limits of applicable state financial responsibility law, or

(C) In the absence of a state financial responsibility law, levels of protection to be determined by ACTION for each person, each accident, and for property damage.

(2) *Meals:* Within the limits of available resources and project policy, Foster Grandparents will be provided or will receive assistance with the cost of meals taken during their service schedule.

(3) *Physical Examinations:* Foster Grandparents are required to have a physical examination prior to assignment and annually thereafter.

(4) *Appropriate Recognition* will be provided for Foster Grandparents.

(5) *Stipends:* A Foster Grandparent will receive a stipend in an amount determined by ACTION and payable in regular installments. The minimum amount of the stipend is set by law and may be adjusted by the Director from time to time. When more than one eligible member of a household serves as a Foster Grandparent, only one member shall be entitled to receive a stipend. All eligible members in such cases shall be entitled to other direct benefits. Only in cases where enrolled Foster Grandparents marry may each continue to receive a stipend.

(6) *Transportation:* Foster Grandparents shall be provided transportation or receive assistance with the cost of transportation to and from volunteer assignments and official project activities, including orientation, training, advisory council meetings and recognition events. Reimbursement will be within the limits of available resources and project policy. Project funds may not be utilized to reimburse Foster Grandparents for transportation provided for or on behalf of children.

§ 1208.3-6 Foster grandparent assignments.

(a) Foster Grandparents shall serve children with special or exceptional needs.

(b) Priority consideration shall be given to placing Foster Grandparents in assignments where: those assignments constitute early intervention; there is a possibility for significant improvement

in the quality of life for the children served, and there is a probability of a long-term relationship between the Foster Grandparent and the child.

(c) Priority consideration shall also be given to preventing or minimizing institutionalization by placing Foster Grandparents with children in-home, in special education classes, in special training centers, in developmental centers, in day care centers for children with exceptional or special needs, in hospitals, and in the juvenile justice system.

(d) The individualized care plan for a Foster Grandparent to follow in each in-home assignment he or she receives, should include the projected role and functions of the Foster Grandparent, be updated on a regular basis, and be used as a guide for evaluating the child's development and the Foster Grandparent's role.

(e) Where state, county or local sponsor's definition(s) of children having exceptional needs and children with special needs vary from the definitions in § 1208.1-2 of these regulations, ACTION will determine the suitability of non-ACTION definition(s) in regard to placement of Foster Grandparents with children.

(f) Foster Grandparent activities develop person-to-person, supportive relationships with children and do not provide service to volunteer stations or other agency or organization where volunteers serve. Activities of Foster Grandparents should serve the dual purpose of being personally meaningful to the volunteers themselves and providing support and companionship to the children served.

§ 1208.3-7 Children served.

(a) Identification of individual children to receive supportive person-to-person services from a Foster Grandparent is a responsibility of volunteer station professional staff and will be made in accordance with criteria specified in § 1208.3-6. Actual Foster Grandparent assignments to individual children and a determination of the length of time each child should receive such services will be made with concurrence of the sponsor or his or her designee, usually the project director, in accordance with the Memorandum of Understanding described in § 1208.3-1(k).

(b) Foster Grandparent concurrence with assignments to individual children is required.

(c) Preference will be given to assigning Foster Grandparents to young children. Each Foster Grandparent shall be assigned to two children.

(d) When a Foster Grandparent is assigned to a mentally retarded child, that assignment may continue beyond the child's 21st birthday, provided:

(1) That such child was receiving such services prior to attaining the chronological age of 21;

(2) That the public or private non-profit agency (volunteer station) responsible for providing services to the child determines that it is in the best interest of both the Foster Grandparent and the child; and

(3) There is mutual agreement by all parties with respect to provision of services to the child involved.

Subpart D—Non-ACTION Funded Projects

§ 1208.4-1 Memorandum of agreement.

(a) If an eligible agency or organization wishes to sponsor a project without ACTION funding, and wishes to receive technical assistance and materials from ACTION, it must sign a Memorandum of Agreement with ACTION identifying mutual responsibilities and certifying its intent to comply with ACTION regulations.

(b) A non-ACTION funded project sponsor's noncompliance with the Memorandum of Agreement may result in suspension or termination of ACTION's technical assistance to the project.

(c) Termination of the agreement by either the project sponsor or ACTION will result in loss of the tax exempt status of volunteer direct benefits allowable to Foster Grandparents and loss of coverage by the statutory provision that receipt of the stipend will not affect the volunteers' eligibility for any governmental assistance.

(d) Entry into a Memorandum of Agreement with a sponsoring agency which does not receive ACTION funds will not, under any circumstances, create a financial obligation on the part of ACTION for costs associated with the project, including increases in required payments to volunteers which may result from changes in the Act or in ACTION regulations.

Subpart E—Sanctions and Legal Representation

§ 1208.5-1 Special limitations.

(a) *Political activities.* (1) No part of any grant shall be used to finance, directly or indirectly, any activity to influence the outcome of any election to public office, or any voter registration activity.

(2) No project shall be conducted in a manner involving the use of funds, the provision of services, or the employment

or assignment of personnel in a manner supporting or resulting in the identification of such project with (i) any partisan or nonpartisan political activity associated with a candidate, or countending faction or group, in an election, or (ii) any activity to provide voters or prospective voters with transportation to the polls or similar assistance in connection with any such election, or (iii) any voter registration activity.

(3) No Foster Grandparent or employee of a sponsor or volunteer station may take any action, when serving in such capacity, with respect to a partisan or nonpartisan political activity that would result in the identification or apparent identification of the Foster Grandparent Program with such activity.

(4) No grant funds may be used by the sponsor in any activity for the purpose of influencing the passage or defeat of legislation or proposals by initiative petition, except

(i) In any case in which a legislative body, a committee of a legislative body, or a member of a legislative body requests a Foster Grandparent, a sponsor chief executive, his or her designee, or project staff to draft, review or testify regarding measures or to make representation to such legislative body, committee or member; or

(ii) In connection with an authorization or appropriations measure directly affecting the operation of the Foster Grandparent Program.

Prohibitions on Electoral and Lobbying Activities are fully set forth in 45 CFR Part 1228 and in ACTION Handbook 4405.90.

(b) *Restrictions on State or Local Government Employees.* If the sponsor is a State or local government agency which receives a grant from ACTION, certain restrictions contained in Chapter 15 of Title 5 of the United States Code are applicable. They are related to persons who are principally employed in activities associated with the project. The restrictions are not applicable to employees of educational or research institutions. An employee subject to these restrictions may not:

(1) Use his/her official authority or influence for the purpose of interfering with or affecting the result of an election or nomination for office;

(2) Directly or indirectly coerce, attempt to coerce, command or advise a State or local officer or employee to pay, lend, or contribute anything of value to a party, committee, organization, agency, or person for political purposes; or

(3) Be a candidate for elective office, except in a nonpartisan election.

"Nonpartisan election" means an election at which none of the candidates is to be nominated or elected as representing a political party any of whose candidates for Presidential election received votes in the last preceding election at which Presidential electors were selected.

(c) *Religious activities* Foster Grandparents and project staff funded by ACTION shall not give religious instruction, conduct worship services or engage in any form of proselytization as part of their duties.

(d) *Nondiscrimination.* For purposes of this subpart, and for purposes of Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000 d et seq.), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), and the Age Discrimination Act of 1975 (Pub. L. 94-135, Title III; 42 U.S.C. 6101 et seq.), any program, project, or activity to which volunteers are assigned under this Act shall be deemed to be receiving Federal financial assistance.

(1) No person with responsibility in the operation of a project shall discriminate with respect to any activity or program because of race, creed, belief, color, national origin, sex, age, handicap, or political affiliation.

(2) Sponsors are required to take affirmative action to overcome the effects of prior discrimination. Even in the absence of prior discrimination, a sponsor may take affirmative action to overcome conditions which resulted in limiting participation.

(3) No person in the United States shall on the ground of sex be excluded from participation in, be denied the benefits of, be subjected to discrimination under, or be denied employment in connection with a Foster Grandparent project.

(e) *Labor and Anti-Labor Activity.* No grant funds shall be directly or indirectly utilized to finance labor or anti-labor organization or related activity.

(f) *Nondisplacement of Employed Workers.* A Foster Grandparent may not perform any service or duty or engage in any activity which would otherwise be performed by an employed worker or which would supplant the hiring of employed workers.

(g) *Nonimpairment of Contracts.* A Foster Grandparent may not perform any service or duty or engage in any activity which impairs an existing contract for service. The term "contract for service" includes but is not limited to contracts, understandings, and arrangements, either written or oral, to provide professional, managerial, technical, or administrative service.

(h) *No compensation for Services.* No person, organization, or agency shall request or receive any compensation for services of Foster Grandparents.

(i) *Nepotism.* Persons selected for project staff positions may not be related by blood or marriage to other project staff, sponsor staff or officers, or members of the sponsor Board of Directors, unless there is concurrence by the Advisory Council, with notification to ACTION.

(j) *Volunteer Termination.* A sponsor may separate a volunteer for cause, including, but not limited to, extensive or unauthorized absences, misconduct, inability to perform assignments or having income in excess of the eligibility level established by ACTION.

§ 1200.5-2 Legal representation.

Counsel may be employed and counsel fees, court costs, bail and other expenses incidental to the defense of a Foster Grandparent may be paid in a criminal, civil or administrative proceeding, when such a proceeding arises directly out of performance of the Foster Grandparent's activities. 45 CFR Part 1220 establishes the circumstances under which ACTION may pay such expenses.

Signed at Washington, D.C., this 13th day of September, 1982.

Thomas W. Pankas,
Director, ACTION.

[FR Doc. 82-30087 Filed 11-1-82; 9:45 am]
BILLING CODE 6050-01-01

45 CFR Part 1200

Retired Senior Volunteer Program

AGENCY: ACTION.

ACTION: Proposed rule revision.

SUMMARY: This proposed revision is intended to clarify and update existing Retired Senior Volunteer Program regulations relating to project development and funding, project operation, non-ACTION funded projects and special limitations affecting aspects of project operations. The text is simplified and reduced wherever possible.

DATE: Comments must be received by December 2, 1982.

ADDRESS: Written comments should be sent to: Director, Older American Volunteer Programs, ACTION, 806 Connecticut Avenue, NW., M-1006, Washington, D.C. 20525.

FOR FURTHER INFORMATION CONTACT: Betty H. Brake, (202) 254-7310.

SUPPLEMENTARY INFORMATION: ACTION has determined that this regulation is

not a major rule as defined by Executive Order 12291. The regulations will not result in any of the following:

1. Any effect on the economy;
2. Any increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions; or
3. Any adverse effects on competition, employment, investment productivity, innovation or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Subpart A—General

1. Proposed Sec. 1-1 is amended to more precisely define the purpose of the program. Sec. 1-2 of current regulations is deleted as unnecessary. Proposed 1-2 is added to define terms used in the proposed regulations. Proposed Sec. 1-3 is added to ensure cooperation with existing or planned community services.

Subpart B—Project Development and Funding

2. The Subpart B heading has been changed from "Grants" to "Project Development and Funding" to more accurately describe contents of the section. The proposed change tracks the grant application process from inquiry to final action.

3. Proposed Sec. 2-1 directs inquiries regarding the RSVP grant application process to the appropriate ACTION State Office. It replaces Sec. 2-2 of current regulations and is meant to clarify the application process for potential sponsors.

4. Proposed Sec. 2-2, "Budget Support," replaces Sec. 2-3 of the current regulations and reflects a change in present local support emphasis. The new regulation emphasizes the sponsor's responsibility for generating local program support to the fullest extent possible and at least equal in amount to the local support negotiated between ACTION and the sponsor.

5. Proposed Section 2-7 and 2-8 replace Sections 2-6 through 2-9 of current regulations relating to grant management and suspension, termination, and denial of refunding. The proposed change reduces regulatory text by excising information published in entirety in 45 CFR Part 1206.

Subpart C—Project Operations

6. This proposed Subpart is a reorganization of Subpart C in the current regulations to clarify and describe in greater detail the responsibilities of the sponsor, project

staff, Advisory Council, and volunteer stations.

Subpart D—Non-ACTION Funded Projects

7. Proposed Subpart D is a new section which allows the development of a non-ACTION funded RSVP project under specific conditions.

Subpart E—Sanctions and Legal Representation

8. Proposed new Subpart E includes all current special limitations and regulations that apply to sponsors and RSVP volunteers. They have been included in one section for easy reference. This section also reflects an amendment to the Act which prohibits the use of any grant funds for the purpose of influencing the passage or defeat of legislation or proposals by initiative petition except under certain conditions.

The Retired Senior Volunteer Program is identified by No. 72.002 in the Catalog of Federal Domestic Assistance.

Pursuant to Section 3(c)(3) of E.O. 12291, entitled "Federal Regulation," the required review process has been completed by the Director of the Office of Management and Budget.

List of Subjects in 45 CFR Part 1209

Aged, Grant programs/social programs, Reporting and recordkeeping requirements, Volunteers.

It is proposed to revise 45 CFR Part 1209 to read as follows:

PART 1209—RETIRED SENIOR VOLUNTEER PROGRAM

Subpart A—General

Sec.

- 1209.1-1 Purpose of the program.
- 1209.1-2 Definitions.
- 1209.1-3 Coordination.

Subpart B—Project Development and Funding

- 1209.2-1 Inquiries.
- 1209.2-2 Budget support.
- 1209.2-3 Sponsor eligibility and solicitation of proposals.
- 1209.2-4 Project sponsors.
- 1209.2-5 Review of project proposals.
- 1209.2-6 Awards.
- 1209.2-7 Grant management.
- 1209.2-8 Suspension, termination, denial of refunding.

Subpart C—Project Operations

- 1209.3-1 Sponsor responsibility.
- 1209.3-2 Project staff.
- 1209.3-3 RSVP advisory council.
- 1209.3-4 Volunteer station responsibility.
- 1209.3-5 RSVP volunteers.
- 1209.3-6 Volunteer assignments.
- 1209.3-7 Service area.

Subpart D—Non-ACTION Funded Projects

Sec.

- 1209.4-1 Memorandum of agreement.

Subpart E—Sanctions and Legal Representation

- 1209.5-1 Special limitations.
- 1209.5-2 Legal representation.

Authority: Secs. 201, 212, 221, 222, 223, 402(14), 418 and 420 of Pub. L. 93-113, 83 Stat. 108, 87 Stat. 403, 404 and 414, 42 U.S.C. 5001, 5012, 5021, 5022, 5023, 5042(14), 5058 and 5060.

Subpart A—General

§ 1209.1-1 Purpose of the program.

The Retired Senior Volunteer program (RSVP) is authorized under Title II, Part A, of the Domestic Volunteer Service Act of 1973, as amended (Pub. L. 93-113). The purpose of the program is to provide a variety of opportunities for retired persons aged 60 or over to participate more fully in the life of their community through significant volunteer service.

§ 1209.1-2 Definitions.

Terms used in this part are defined as follows:

"Act" is the Domestic Volunteer Service Act of 1973, as amended (Pub. L. 93-113, 87 Stat. 394, 42 U.S.C. 4951).

"Advisory Council" is a group of persons formally organized by the project sponsor for the purpose of advising and supporting the sponsor in operating the project effectively.

"Agency" is the federal ACTION Agency.

"Director" is the Director of ACTION. "Handbook" is the RSVP Operations Handbook No. 4405.92 which contains ACTION policies for implementing these regulations.

"Hard-to-reach" individuals are those who are physically or socially isolated because of factors such as language, disability, or inadequate transportation.

"OAVP" refers to the Older American Volunteer Programs, which include: the Retired Senior Volunteer Program, the Foster Grandparent Program, and the Senior Companion Program.

"Project" is the locally planned and implemented Retired Senior Volunteer Program activity as agreed upon between ACTION and the sponsor.

"Service Area" is a geographically defined area in which volunteers are recruited, enrolled, and placed on assignments.

"Sponsor" is a public agency or private nonprofit organization which is responsible for the operation of the local RSVP project.

"Volunteer Station" means a public or private nonprofit agency, organization, or institution, as well as a proprietary health care organization, in or through which volunteers serve in accordance with program policies. Each health care

organization serving as a volunteer station must be licensed or otherwise certified by the appropriate State or local government.

§ 1209.1-3 Coordination.

The sponsor shall coordinate activities with project-related groups and individuals, including those representing government, industry, labor, volunteer organizations, programs for the aging, including State and Area Agencies on Aging, and other ACTION programs, to facilitate cooperation with existing or planned community services and to develop community support.

Subpart B—Project Development and Funding

§ 1209.2-1 Inquiries.

Inquiries regarding the Retired Senior Volunteer Program application process, program criteria, or the availability of funds, should be directed to the ACTION State Office serving the inquirer's own state. ACTION headquarters office in Washington, D.C., will assist in directing inquiries to the appropriate state office.

§ 1209.2-2 Budget support.

(a) An RSVP sponsor is responsible for generating needed financial support for the RSVP project from all sources, federal and non-federal, including grants, cash and in-kind contributions, to meet budgeted costs of the project. The sponsor will supplement an ACTION grant with other support to the fullest extent possible at at least equal in amount to that negotiated between ACTION and the sponsor. The following percentages will be used as a guide by ACTION in negotiating the level of local support a sponsor will be required to contribute to the total project budget. In no event shall the required proportion of local support (including in-kind contributions) be more than 10% in the first year, 20% in the second year, 30% in the third year, 40% in the fourth year, and 50% in the fifth and succeeding years. The level of local support negotiated may be higher or lower than these percentages, as mutually agreed to by ACTION and the sponsor, and as justified by local conditions. Sponsors proposing to contribute local support of less than 30% of the total project budget for the third or succeeding years must provide ACTION with an acceptable written justification for the lower level of support.

(b) The total of Volunteer Expenses for Senior Volunteers, including insurance, transportation, meals, and recognition activities, shall be an amount equal to at least 25% of the

amount of the ACTION grant award. Federal and non-Federal resources may be used to make up this sum.

Exceptions to this requirement may be requested of the Director, Older American Volunteer Programs, through the ACTION State Director by an RSVP Sponsor who can clearly demonstrate that (1) this requirement will result in undue hardship in the conduct of project operation, and (2) a lesser amount will meet the volunteer expense needs of the number of volunteers budgeted.

§ 1209.2-3 Sponsor eligibility and solicitation of proposals.

(a) **Sponsor eligibility.** ACTION will award grants only to public agencies and private non-profit organizations in the United States which have the authority to accept and the capability to administer such grants.

(b) **Solicitation of proposals.** (1) Any eligible organization may file an application for a grant. Applicants may also be solicited by ACTION pursuant to its objective of achieving equitable program resource distribution. Solicited applications are not assured of selection or approval and may have to compete with other solicited or unsolicited applications.

(2) The Director may not award any grant or contract for a project in any state to any agency or organization unless, if such state has a state agency established or designated pursuant to Section 305 (a)(1) of the Older Americans Act of 1965, as amended (42 U.S.C. 3025(a)(1)), such agency itself is the recipient of the award, or such agency has been afforded at least 45 days in which to review and comment on the new grant application.

§ 1209.2-4 Project proposals.

(a) Applicants shall use standard forms prescribed by ACTION. ACTION State Offices will provide applicants with guidance and any additional instructions necessary to plan and budget proposed program activities.

(b) New applicants, as well as existing sponsors submitting continuation applications, must comply with State and Area Planning and Development Clearinghouse notification and review procedures set forth in Office of Management and Budget (OMB) Circular A-95.

(c) A potential sponsor must submit one copy of an application for a new RSVP project to the State Agency on Aging, which has 45 days to review the application and make recommendations. The State Agency on Aging shall state in writing to ACTION its recommendations and reasons within this time period or

will be considered to have waived its rights under this part.

§ 1209.2-5 Review of project proposals.

(a) The ACTION State Office for the applicant's state will conduct a review of grant applications to ensure that program requirements are complied with and that required documentation has been attached.

(b) If not approved, the application will be returned to the applicant with an explanation of ACTION's decision. The unsuccessful applicant may reapply when the inadequacy, if any, found in the application is resolved.

§ 1209.2-6 Awards.

(a) ACTION will, within funds available, award a grant in writing to those applicants whose grant proposals provide the best potential for serving the purpose of the program. The award will be documented by *Notice of Grant Award* (NGA).

(b) The parties to the NGA are ACTION and the sponsoring organization. The NGA will document the sponsor's commitment to fulfill specific programmatic objectives and financial obligations. It will document the extent of ACTION's obligation to provide financial support to the sponsor.

(c) A sponsor may receive a grant award for more than one OAVP project.

§ 1209.2-7 Grant management.

(a) Sponsors shall manage grants awarded to them in accordance with provisions of ACTION Handbook No. 4405.92, RSVP Operations Handbook, and ACTION Handbook 2850.2, entitled, *Grants Management Handbook for Grantees*. A copy of each document will be furnished to the sponsor at the time the initial grant is awarded.

(b) Project support provided under an ACTION grant shall be furnished at the lowest possible cost consistent with the effective operation of the project.

(c) Project costs for which ACTION funds are budgeted must be justified as being essential to project operation.

§ 1209.2-8 Suspension, termination and denial of refunding.

Grant suspension, termination and denial of refunding procedures are set forth in 45 CFR Part 1206, Chapter XII, and in ACTION Handbook 2850.2.

Subpart C—Project Operations

§ 1209.3-1 Sponsor responsibility.

The sponsor is responsible for all programmatic and fiscal aspects of the project and may not delegate or contract this responsibility to another entity. The sponsor has the responsibility to:

(a) Employ, supervise, and support a project director, who will be directly responsible to the sponsor for the management of the project, including selection, training and supervision of project staff;

(b) Provide for the recruitment, assignment, supervision and support of volunteers. Special efforts are to be made toward recruitment and assignment of older persons from minority groups, handicapped and hard-to-reach individuals, and groups in the community which are under represented in the project. The sponsor will stress the recruitment and enrollment of persons not already volunteering;

(c) Provide financial and in-kind support to fulfill the project's local support commitment;

(d) Establish, orient and support an independent RSVP Advisory Council;

(e) Provide the volunteers with not less than the minimum accident, personal liability, and excess auto liability insurance required by ACTION;

(f) Provide for appropriate recognition of the volunteers and their activities;

(g) Establish personnel practices, including provision of position descriptions for project staff and grievance and appeal procedures for both volunteers and project staff;

(h) Ensure compliance with ACTION requirements relating to nondiscrimination, religious activity, political activity, lobbying, patronage toward persons related by blood or marriage, labor and anti-labor organization of related activities, nondisplacement of employed workers, nonimpairment of contracts, and noncompensation for services;

(i) Maintain project records in accordance with generally accepted accounting practice and provide for the preparation and submission of reports required by ACTION;

(j) Develop volunteer service opportunities through volunteer stations;

(k) Negotiate, prior to placement of volunteers, a written Memorandum of Understanding with each volunteer station, identifying sponsor responsibilities, volunteer station responsibilities, and joint responsibilities;

(l) Orient volunteer station staff to RSVP and its activities;

(m) Provide pre-service orientation to the volunteers on RSVP goals and activities;

(n) Arrange for in-service training of the volunteers by volunteer stations or other sources of training as needed;

(o) Provide or arrange for volunteer benefits in a timely manner;

(p) Ensure provision for volunteer safety;

(q) Comply with program regulations, policies and procedures prescribed by ACTION;

(r) Ensure that appropriate liability insurance is maintained for owned, non-owned, or hired vehicles used in the project; and

(s) Develop a realistic transportation plan for the project based on the lowest cost modes of transportation.

§ 1209.3-2 Project staff.

(a) Project staff are employees of the sponsor and subject to its personnel policies and practices.

(b) ACTION must concur in writing with the sponsor's selection of a project director before such person is employed or earns pay from grant funds.

(c) A project director shall serve full-time and may not be employed or serve concurrently in another capacity, paid or unpaid, during established working hours, without prior approval from ACTION.

(d) Compensation levels of the project staff, including wages, salaries and fringe benefits, should be comparable to like or similar positions in the sponsor organization and in the community.

§ 1209.3-3 RSVP Advisory Council.

An Advisory Council shall be established to advise and assist the project sponsor and staff. There shall be a separate Advisory Council for each Older American Volunteer Program administered by the sponsor. The Advisory Council shall:

(a) Advise the project director in the formulation of local policy, planning, and the development of operational procedures and practices consistent with program policies;

(b) Assist the sponsor by promoting community support for the project, advise on personnel actions affecting volunteers and project staff, and assist in developing local financial and in-kind resources;

(c) Include in its membership, when available: community business and labor leaders, representatives from volunteer stations, public and private agencies, and persons specializing in the fields of aging or volunteerism. In addition, at least one-fourth of the Advisory Council shall be persons aged 60 or over. This group must include RSVP volunteers as voting members. The sponsor's chief executive or designee, one member of its governing board, and the project director should be members of the Advisory Council but may not be officers of the Advisory Council. The sponsor's chief executive and the project director may not be

voting members. The member representing the sponsor's governing board may be a voting member. The provisions of Section 1209.5-1(c), Nondiscrimination, apply to the Advisory Council;

(d) Meet on a regular schedule and establish its own procedures, including election of officers and terms of office;

(e) Conduct an annual appraisal of project operation and submit a report to the sponsor, which shall be attached to the continuation grant application;

(f) Have an opportunity to advise the sponsor in advance on the selection or termination of the project director; and

(g) Ensure procedures are in effect to hear an appeal to actions affecting a volunteer adversely.

§ 1209.3-4 Volunteer station responsibility.

(a) Normally the volunteer station is an organization other than the sponsoring organization. The sponsor may function as a volunteer station, provided that not more than 5% of the total number of volunteers enrolled in the project are assigned to it. This limitation does not apply to the assignment of volunteers to other programs administered by the sponsor. Also, the RSVP project itself may function as a volunteer station or may initiate special volunteer activities which temporarily function at that location, provided ACTION agrees that these activities are in accord with program objectives and will not hinder overall project operation.

(b) Volunteer stations at which volunteers serve will be in the community where such persons live or in nearby communities. Volunteer services will be performed either on publicly owned and operated facilities or projects, or on local projects sponsored by private nonprofit organizations (other than political parties), other than projects involving construction, operation, or so much of any facility used or to be used for sectarian instruction or as a place of religious worship.

(c) Volunteer station responsibilities include: (1) Assisting with or arranging for volunteer transportation and assisting in the provision of appropriate volunteer recognition;

(2) Developing volunteer assignments, assigning, supervising and training volunteers and providing them with preservice orientation and in-service training;

(3) Providing for volunteer safety;

(4) Keeping records and preparing reports required by sponsor;

(5) Signing, prior to placement of volunteers, a Memorandum of

Understanding with the sponsor establishing working relationships and mutual responsibilities, and detailing responsibilities outlined above as well as other responsibilities that may be agreed to. The Memorandum of Understanding is to be reviewed and, as appropriate, changed annually. The Memorandum should be signed and dated annually to indicate that review and, if needed, update have been accomplished.

§ 1209.3-5 RSVP volunteers.

(a) *Eligibility.* (1) To be eligible for enrollment as an RSVP volunteer, a person must be 60 years of age or over, retired, willing to serve on a regular basis, and willing to accept instruction and supervision as required.

(2) Eligibility to be an RSVP volunteer may not be restricted on the basis of education, income, experience, citizenship, race, color, creed, belief, sex, national origin, political affiliation, or handicap.

(b) *Volunteer expenses.* (1) Within the limits of a project's approved budget and in accordance with provision of the RSVP Operations Handbook, volunteers will be provided transportation or will receive assistance with costs of transportation, recognition activities, and, when possible, meals. In addition, provision shall be made by the sponsor to obtain ACTION specified minimum levels of accident insurance, personal liability insurance and, when appropriate, excess automobile liability insurance.

(i) *Accident insurance:* Accident insurance shall cover RSVP volunteers for personal injury during travel between their homes and places of assignment, during their volunteer service, during meal periods while serving as a volunteer, and while attending project-sponsored activities, such as recognition activities, orientation and Advisory Council meetings. Protection shall be provided against claims in excess of any benefits or services for medical care or treatment available to the volunteer from other sources, including:

(A) Health insurance coverage;

(B) Other hospital or medical service plans;

(C) Any coverage under labor-management trustee plans, union welfare plans, employer organization plans, or employee benefit organization plans; and

(D) Coverage under any governmental programs, or provided by any statute. When benefits are approved in the form of services rather than by cash payments, the reasonable cash value of

each service rendered shall be considered in determining the applicability of this provision. The benefits payable under a plan shall include the benefits that would have been payable had a claim been duly made therefor. The benefits payable shall be reduced to the extent necessary so that the sum of such reduced benefits and all the benefits provided for by any other plan shall not exceed the total expenses incurred by the volunteer.

(ii) *Personal Liability Insurance:* Protection shall be provided against claims in excess of protection provided by other insurance.

(iii) *Excess Automobile Liability Insurance:* Protection shall be provided against claims in excess of the greater of either:

(A) Liability insurance volunteers carry on their own automobiles, or

(B) The limits of applicable state financial responsibility law, or

(C) In the absence of a state financial responsibility law, levels of protection to be determined by ACTION for each person, each accident, and for property damage.

§ 1209.3-6 Volunteer assignments.

(a) A variety of assignments shall be developed prior to the recruitment of RSVP volunteers. Assignments shall include opportunities to respond to significant Community needs.

(b) Assignments shall be matched to the interests, abilities, preferences and availability of volunteers. Special consideration shall be given to developing assignments that allow for the limited physical strength and mobility of the handicapped older volunteer.

§ 1209.3-7 Service area.

The service area of a project identified in the approved grant application may not be redefined without prior written approval from ACTION.

Subpart D—Non-ACTION Funded RSVP Projects

§ 1209.4-1 Memorandum of agreement

(a) If an eligible agency or organization wishes to sponsor an RSVP project without ACTION funding, and wishes to receive technical assistance and materials from ACTION, it must sign a Memorandum of Agreement with ACTION identifying mutual responsibilities and certifying its intent to comply with ACTION regulations.

(b) A non-ACTION funded project sponsor's noncompliance with the

Memorandum of Agreement may result in suspension or termination of ACTION's technical assistance to the project.

(c) Entry into a Memorandum of Agreement with a sponsoring agency which does not receive ACTION funds will not, under any circumstances, create a financial obligation on the part of ACTION for costs associated with the project.

Subpart E—Sanctions

§ 1209.5-1 Special limitations and legal representation.

(a) *Political activities.* (1) No part of any grant shall be used to finance, directly or indirectly, any activity to influence the outcome of any election to public office, or any voter registration activity.

(2) No project shall be conducted in a manner involving the use of funds, the provision of services, or the employment or assignment of personnel in a manner supporting or resulting in the identification of such project with (i) any partisan or nonpartisan political activity associated with a candidate, or contending faction or group, in an election, or (ii) any activity to provide voters or prospective voters with transportation to the polls or similar assistance in connection with any such election, or (iii) any voter registration activity.

(3) No RSVP volunteer or employee of a sponsor or volunteer station may take any action, when serving in such capacity, with respect to a partisan or nonpartisan political activity that would result in the identification or apparent identification of the Retired Senior Volunteer Program with such activity.

(4) No grant funds may be used by the sponsor in any activity for the purpose of influencing the passage or defeat of legislation or proposals by initiative petition, except:

(i) In any case in which a legislative body, a committee of a legislative body, or a member of a legislative body requests an RSVP volunteer, a sponsor chief executive, his or her designee, or project staff to draft, review or testify regarding measures or to make representation to such legislative body, committee or member, or

(ii) In connection with an authorization or appropriation measure directly affecting the operation of the Retired Senior Volunteer Program.

(5) Prohibitions on Electoral and Lobbying Activities are fully set forth in 45 CFR Part 1226 and in ACTION Handbook No. 4405.92.

(b) *Restrictions on State or Local Government Employees.* If the sponsor is a state or local government agency which received a grant from ACTION, certain restrictions contained in Chapter 15 of Title 5 of the United States Code are applicable to persons who are principally employed in activities associated with the project. The restrictions are not applicable to employees of educational or research institutions. An employee subject to these restrictions may not:

(1) Use his or her official authority or influence for the purpose of interfering with or affecting the result of an election or nomination for office; or

(2) Directly or indirectly coerce, attempt to coerce, command or advise a State or local officer or employee to pay, lend, or contribute anything of value to a party, committee, organization, agency, or person for political purposes; or

(3) Be a candidate for elective office, except in a nonpartisan election. "Nonpartisan election" means an election at which none of the candidates is to be nominated or elected as representing a political party any of whose candidates for Presidential election received votes in the last preceding election at which Presidential electors were selected.

(c) *Religious activities.* RSVP volunteers and project staff funded by ACTION shall not give religious instruction, conduct worship services or engage in any form of proselytization as part of their duties.

(d) *Nondiscrimination.* For purposes of this subpart, and for purposes of Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d *et seq.*), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), and the Age Discrimination Act of 1975 (Pub. L. 94-135, Title III; 42 U.S.C. 6101 *et seq.*), any project or activity to which volunteers are assigned shall be deemed to be receiving federal financial assistance.

(1) No person with responsibility in the operation of a project shall discriminate with respect to any activity or program because of race, creed, belief, color, national origin, sex, age, handicap, or political affiliation.

(2) Sponsors are required to take affirmative action to overcome the effects of prior discrimination. Even in the absence of prior discrimination, a sponsor may take affirmative action to overcome conditions which resulted in limiting participation.

(3) No person in the United States shall, on the ground of sex, be excluded from participation in, be denied the

benefits of, be subjected to discrimination under, or be denied employment in connection with any project.

(e) *Labor or Anti-Labor Activity.* No grant funds shall be directly or indirectly utilized to finance labor or anti-labor organization or related activity.

(f) *Nondisplacement of Employed Workers.* An RSVP volunteer may not perform any service or duty or engage in any activity which would otherwise be performed by an employed worker or which would supplant the hiring of employed workers.

(g) *Nonimpairment of Contracts.* An RSVP volunteer may not perform any service or duty, or engage in any activity which impairs an existing contract for service. The term "contract for service" includes but is not limited to contracts, understandings and arrangements, either written or oral, to provide professional, managerial, technical, or administrative service.

(h) *Noncompensation for Services.* No person, organization, or agency shall request or receive any compensation for services of RSVP volunteers.

(i) *Volunteer Status.* RSVP volunteer service shall not be deemed employment for any purpose.

(j) *Nepotism.* Persons selected for project staff positions may not be related by blood or marriage to other project staff, sponsor staff or officers, or members of the sponsor Board of Directors, unless there is concurrence by the Advisory Council, with notification to ACTION.

(k) *Volunteer Separation.* A volunteer may be separated from the program for cause, including, but not limited to, extensive absences, misconduct, or inability to perform assignments.

§ 1209.5-2 Legal representation.

Counsel may be employed and counsel fees, court costs, bail, and other expenses incidental to the defense of a Senior Volunteer may be paid in a criminal, civil or administrative proceeding, when such a proceeding arises directly out of performance of the RSVP volunteer's activities. 45 CFR Part 1220 establishes the circumstances under which ACTION may pay such expenses.

Signed at Washington, D.C., this 13th day of September, 1982.

Thomas W. Panken,
Director, ACTION.

[FR Doc. 82-30079 Filed 11-1-82; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[Docket No. 20735; RM-1974; RM-2855]

Changes in the Rules Relating to Non-commercial Educational FM Broadcast Stations; Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Proposed Rule; Extension of comment/reply comment period.

SUMMARY: By previous Order, the Commission indicated that the record in the FCC Docket No. 20735 proceeding relating to non-commercial educational FM broadcast stations would remain open until release of the report "Options for Relief of Interference to TV Channel 6 from Educational FM Stations." This report has been released and was placed in the Docket file on October 20, 1982. Other relevant reports have also been placed in the docket file. This action is intended to give notice of the availability of these reports, consideration of which is prerequisite to the filing of comprehensive comments in this proceeding. This action is also necessary in order to give notice of the setting of specific comment and reply comment deadlines.

DATES: Comments are due on December 6, 1982. Reply comments are due on January 23, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Gordon W. Godfrey, Broadcast Bureau, Policy and Rules Division (202) 632-0860.

SUPPLEMENTARY INFORMATION:

Adopted: October 22, 1982.

Released: October 28, 1982.

1. On July 27, 1982, the Chief, Policy and Rules Division adopted an *Order Extending Time For Filing Comments and Reply Comments* in the above-entitled matter which was released on July 28, 1982, and published in the *Federal Register* (47 FR 34811) on August 11, 1982.

2. The above-mentioned Notice indicated that the dates for filing comments and reply comments in this proceeding were indefinite, but would be extended by 45 days beginning on the release date of the report "Options for Relief of Interference to TV Channel 6 from Educational FM Stations." This report, as well as the report "A Computer Program for Calculating the Effective Interference to TV Service"

and a technical note on "Tests of a Filter for FM Interference to Television Channel 6" were placed in the Docket No. 20735 file on October 20, 1982 which is available at the Federal Communications Commission. The comment and reply comment deadlines will be set accordingly.

3. Additionally, we have under consideration a "Petition to Dismiss" filed by the Central Pennsylvania Christian Institute (CPCI) which asks the Commission to terminate the *Second Further Notice of Proposed Rule Making* in this proceeding and return any and all comments submitted without consideration.

4. Briefly, the CPCI petition is based on the Communications Amendments Act of 1982 (Pub. L. 97-259) which, *inter alia*, gives the Commission authority to regulate the interference susceptibility of receivers. It is argued that receiver regulation, rather than limiting the technical facilities of noncommercial, educational FM stations, is the proper approach to resolving the educational FM/TV Channel 6 interference problem, and that further rule making relating to the latter approach would be inappropriate.

5. Ideally, the CPCI petition would seem to have merit. However, it overlooks the start-up problems and delays which are an inevitable part of implementing a new regulatory program. Thus, considerable time could elapse while the Commission considers adoption of new receiver performance standards.

6. Even more importantly, the CPCI petition ignores the fact that there are millions of TV receivers presently in use that could not be subjected to new standards. The usable life of these receivers could extend to ten or more years. Thus, if the present interference problem is to be alleviated, limiting the technical facilities of noncommercial, educational FM stations appears to be required as part of the overall solution, at least for the immediate future.

7. Accordingly, it is ordered that the "Petition to Dismiss" submitted by the Central Pennsylvania Christian Institute is denied. It is further ordered, that the time for filing comments and reply comments in Docket No. 20735 is extended to December 6, 1982, and January 21, 1983, respectively.

8. This action is taken pursuant to authority contained in Sections 4(i) and 303 of the Communications Act of 1934, as amended, and Section 0.281 of the Commission's Rules.

REGULATIONS REVIEWED TO DATE

A. Regulations which have a Disproportionate Impact on Women.

None

B. Regulations which are Gender Neutral.

45 CFR Part:

- 1201 Standards of Conduct
- 1210 VISTA Trainee Deselection and Volunteer Early Termination Procedures
- 1206 Subpart B Grants and Contracts - Denial of Application for Refunding
- 1207 Senior Companion Programs
- 1208 Foster Grandparent Programs
- 1209 Retired Senior Volunteer Programs
- 1211 Volunteer Grievance Procedures
- 1222 Participation of Project Beneficiaries
- 1225 Volunteer Discrimination Complaint Procedures
- 1226 Prohibitions on Electoral and Lobbying Activities
- 1232 Nondiscrimination on Basis of Handicap in Programs receiving Federal Financial Assistance from ACTION

C. Regulations which contain Gender-Specific Terminology

45 CFR Part:

- 1203 Nondiscrimination in Federally assisted Programs (presently under revision)
- 1204 Official Seal
- 1206 Subpart A Grants and Contracts - Suspension and Termination
- 1215 Inspection and Copying of Records; Rules for Compliance with Public Information Act

1218 VISTA Volunteers - Hearing Opportunity
1219 Competitive Service Eligibility
1220 Payment of Volunteer Legal Expenses
1224 Implementation of the Privacy Act of 1974
1228 Clearinghouse Requirements and Procedures

CENTRAL INTELLIGENCE AGENCY

Status Summary

The Central Intelligence Agency (CIA) was established under the National Security Council by the National Security Act of 1947, as amended, 50 U.S.C. §§403 et seq. Under the direction of the President and the National Security Council, the CIA has the responsibility of collecting, evaluating, and producing foreign intelligence.

The CIA revised substantive and terminological sex-discriminatory provisions in the process of conducting a comprehensive review of the USC, the CFR, and the agency's policies.

QUARTERLY REPORT OF THE CENTRAL INTELLIGENCE AGENCY
TO THE
DEPARTMENT OF JUSTICE SEX DISCRIMINATION AGENCY REVIEW GROUP

INTRODUCTION

This report is submitted to the Department of Justice by the Central Intelligence Agency (CIA) pursuant to Executive Order 12336. The Department is required by that Order to submit a quarterly report to the President describing its efforts to review Federal laws, regulations, policies and practices for discrimination based on sex.

MISSION OF THE AGENCY

It is the responsibility of CIA, pursuant to the National Security Act of 1947, as amended, and in accordance with Executive Order 12333, to collect, evaluate and produce foreign intelligence for the senior policy officers of our government and to conduct other intelligence activities.

LAW

The Agency's enabling legislation, governing the conduct of its programs and activities, consists of the National Security Act of 1947, as amended, (50 U.S.C. 403) and the Central Intelligence Agency Act of 1949, as amended, (50 U.S.C. 403a, et seq.). The 1947 Act establishes the Agency and the position of Director of Central Intelligence and sets forth the mission and functions of the Agency. The 1949 Act provides administrative and operational authorities of the Agency. In addition, the Director has authority to maintain a separate retirement system for certain Agency employees (primarily those who have served overseas) under the Central Intelligence Agency Retirement Act of 1964, as amended, (50 U.S.C. 403 Note).

These laws were reviewed in 1979 for the Department of Justice Task Force on Sex Discrimination, and no discriminatory language was found.

The basic CIA retirement statute was recently amended by the Central Intelligence Agency Spouses' Retirement Equity Act of 1982, Public Law 97-269, 96 Stat. 1142 (1982) which is sex-neutral in concept and language, but will have its most significant impact on women, at least in the near future. This statute entitles certain spouses and former spouses of Agency employees who served overseas to a share in the employee's retirement benefits. Under this Act, participants in the retirement system are required in the appropriate circumstances to accept necessary reductions in their own annuity to provide

1) a survivor benefit for a spouse and 2) both survivor benefits and a share in the participant's lifetime pension for a former spouse.

No changes in law are recommended.

REGULATIONS AND POLICIES

Since CIA does not administer programs for the general public, most Agency regulations do not apply to the public. Those few regulations that affect the public directly, relating to the processing of information requests under the Freedom of Information and Privacy Acts, are published at 32 CFR 1900 et seq. The headquarters and field regulations promulgated by the Agency for its employees are generally restricted to internal use. The categories include the usual administrative subjects, such as personnel, training, finance and logistics, as well as subjects unique to Agency operations. The issuance of regulations is centralized in the Regulations Control Division of the Office of Information Services, and proposed regulations are closely scrutinized for any discriminatory language.

In 1977, the Agency undertook a comprehensive revision of its regulations to update policy and procedures in all categories. This project was completed in 1980, and another review is scheduled to begin in 1983. In the process, the language of each regulation is reviewed to ensure the avoidance of substantive discrimination based on sex and to delete unnecessary gender-specific language. We believe this procedure is effective in eliminating sex discrimination from the regulations.

In 1982, a regulation was published on sexual harassment, establishing Agency policy and procedures for handling complaints, and detailing the responsibilities of both supervisors and employees to maintain a work environment free from sexual harassment. The regulation states: "Agency policy is that sexual harassment is unacceptable conduct and will not be tolerated." It further states that employees who engage in sexual harassment will be subject to disciplinary action, and outlines the responsibility of every supervisor and manager to ensure that any instance of sexual harassment is dealt with swiftly, fairly and effectively.

An issue that has troubled the Agency for many years is the historically disproportionate impact on women of career interruption for those employees who leave their jobs to accompany spouses on field assignment. In an effort to alleviate this problem, the Agency initiated a major policy change in 1980 after soliciting suggestions and comments from components at all levels of the Agency, including the Office of Equal Employment Opportunity, the Federal Women's Program Advisory Board, and the Working Couple's Task Force. After monitoring the effects of this policy for two years, the Agency issued a revised policy in

July 1982. The new policy directs components to make every effort to provide staff positions for employee couples wherever possible. If no staff assignment is available for one of the spouses, he or she may nevertheless maintain an inactive employment relationship with the Agency during the absence. Upon return to headquarters, the employee will be restored to active employment at the same grade held prior to departure.

Another policy that affects married couples assigned to the same post was revised in 1982 so that travel, transportation, and allowance entitlements are now granted to married employees in recognition of the separate employment status of each.

The Agency has also extended the experimental flexible and compressed work schedules program, which particularly benefits working couples with children.

As a result of a recommendation of the Federal Women's Program Advisory Board, CIA established a Family and Employee Liaison Office in 1981. This office offers assistance to families and employees in preparing for and returning from overseas assignment. Information is available on foreign posts, educational facilities abroad for children, including those for the gifted, the learning-disabled and DOD schools, and opportunities for spouse employment. The office also serves as a referral service to individuals seeking assistance on a wide range of subjects.

In summary, the CIA has made major accomplishments, especially in recent years, to ensure equal treatment of men and women and to address the concerns of working couples in its policies and regulatory issuances. At the present time, no specific policy or regulation remains an outstanding problem.

PROCUREMENT AND CONTRACTING

In the area of procurement and contracting, the CIA has taken a number of initiatives to remove barriers to participation by minorities and women. Senior managers have been advised of the President's concern and the high priority which he places on awarding contracts to minority- and women-owned firms. They have been asked to consider minority- or women-owned sources as they prepare annual procurement plans. A number of publications and directories identifying such sources is distributed to assist them in this effort.

The CIA also includes in its contracts all of the required clauses on contracting or subcontracting with minority- and women-owned firms. To assure that it contracts only with firms in compliance with Federal law, the Agency obtains clearance from the Department of Labor prior to issuing any prime contract over \$1 million dollars.

In summary, CIA fully supports the President's policy in contracting with minority- and women-owned firms.

EQUAL EMPLOYMENT OPPORTUNITY COMPLAINTS SYSTEM

Like all other U.S. Government agencies, CIA maintains an internal administrative system for handling EEO complaints. The CIA complaints system functions in accordance with Title VII of the Civil Rights Act of 1964, as amended, and the regulations and guidelines of the U.S. Equal Employment Opportunity Commission, consonant with the Director's statutory responsibility to protect intelligence sources and methods.

The administrative structure of the Agency's complaints system was reorganized on 1 June 1982. The revised system, developed with the assistance and concurrence of the EEOC, consists of seven mid-to-senior level EEO counselors who report to the Director, EEO. In addition, a staff of senior investigators within the Office of Inspector General investigates formal complaints as directed by the Office of EEO. The Director, EEO, is responsible for accepting or rejecting complaints, drafting proposed dispositions of complaints and final Agency decisions, and conducting the Agency's affirmative action program.

Since the new system was established, 25 cases have been resolved through counseling. At the present time, approximately ten complaints are in the process of reaching settlement.

UPWARD MOBILITY PROGRAMS

The CIA has a long history of assisting talented clerical employees to attain professional status. The National Photographic Interpretation Center established an aggressive upward mobility program in 1971 prior to the amendment in 1972 of the Civil Rights Act to cover Federal employees. Other Agency components followed, and by 1980 approximately nine programs were in operation. There remained, however, some employees who did not have access to a formal program. The Deputy Director of Central Intelligence established an Agency-wide program--the Opportunities for Career Development Program (OCDP)--in 1980 to provide long-term career advancement opportunities for employees who have demonstrated the potential for professional/technical assignments. In 1982 the OCDP obtained commitments for 50 main-line positions and has to date filled 21 of these positions. Of those selected so far, six are white males, 13 are white females, and two are black females. This program is open to all Agency employees, GS-9 and below, or equivalent Wage Grade, who are in clerical or technical positions and who have career status. The program is administered by the Office of EEO.

RECRUITING, SELECTING, AND PROCESSING IN CIA

The capability of the Agency to carry out its mission is directly tied to the caliber of our employees. We have historically, maintained a Recruitment Division whose sole function is to provide a continuing supply of highly qualified applicants, involving many disciplines, for Agency employment consideration.

Female applicants for professional positions are plentiful. However, many have degrees in liberal arts or social sciences, disciplines in which fewer openings exist. Present critical requirements are for scientists, engineers, telecommunications specialists, and career trainees, and it is in these areas that special efforts to locate women are emphasized.

Specific actions taken by the Office of EEO to recruit women in 1982 include:

1. CIA assisted Women in Science and Engineering (WISE), a subcommittee of the Federal Women's Program, in sponsoring a booth and exhibit at the American Association for the Advancement of Science Annual Conference in January and at the Federally Employed Women's Conference in July.

2. A CIA recruiting exhibit and booth was effective in reaching black women at the Alpha Kappa Alpha Sorority Conference in July.

3. In May, the CIA Federal Women's Program sponsored a program for WISE to inform women of the career opportunities available in science and engineering, which 280 people attended.

4. CIA assisted WISE in planning a one-day seminar for women scientists and engineers preceding the Federally Employed Women's Conference in San Antonio in July.

5. The Federal Women's Program Manager recruited at eight women's colleges in November.

After initial screening, complete files on professional applicants submitted by recruiters are circulated for thorough review by Agency components. Applicants also take an intensive battery of tests which measure aptitude, interest, and intellectual ability. The operating component that will initially employ the individual makes the final decision to hire from among those who are most competitive. Applicants are medically evaluated, both physically and emotionally. They are also subject to a thorough background investigation and a polygraph.

Once the applicant is in the 6-9 month processing stage, reasons for rejection may involve medical evaluations, background investigation, polygraph, or testing. The rejection rate in

these areas does not differ significantly for men and women; there appears to be nothing in the processing system which indicates that women are treated differently. The grades at which applicants enter the Agency are based first on the position grade and then on education and experience, and the criteria are applied equally to all. Although male hires show a slightly higher grade, the disparity can be traced to advanced degrees and experience.

PUBLICATIONS

CIA has few unclassified publications available to the general public, and these are used mainly for recruiting purposes. Copies of the three major publications are attached. They reflect the role of women and minorities in the Agency's work force. {Omitted due to length considerations}.

SUMMARY

During the past four years, the Agency has addressed numerous issues which impacted on the careers of women and on working couples, and major policies have been changed. Unnecessary gender-specific language has been purged from the regulations. At the present time, no policies or regulations remain which have been identified as either discriminatory or having a disparate effect. Much progress has occurred in improving the number of women in occupations in which they were underrepresented, and the number of professional women has steadily increased.

FUTURE COMMITMENTS

Although progress has been made over the past few years, improvement could still be made in some areas including:

- underrepresentation of professional minority women;

- underrepresentation of women in supervisory and management positions;

- underrepresentation of women in the Senior Intelligence Service; and

- the need for training and developmental assignments for women to ensure they remain competitive with their male peers.

The solution to these problems requires an increased sensitivity and concern on the part of individual managers who make the daily decisions affecting women's careers. To increase manager's awareness, the Director of EEO initiated two training courses for managers' in 1982, both of which will be continued in 1983. The first is a two-day Urban Awareness Seminar designed to increase managers' sensitivity to racism and sexism. The second

course is EEO for Managers, designed to increase managers' knowledge of EEO laws and their own responsibilities to ensure equal opportunity to all employees. To date, approximately 375 managers have attended these courses.

To assist in the development of women managers, the Director of EEO launched a new training course in 1982, The Professional Woman in a Managerial Environment. The 75 participants who have completed the course have given it outstanding evaluations, and the course will be given five times in 1983.

Senior Agency officials are committed to providing equal career opportunities for women and have supported the Office of EEO and the Federal Women's Program in developing actions to eliminate sex discrimination in policies and practices.

APPENDIX

CIA COMPARED TO FEDERAL GOVERNMENT

	Women in CIA (Sep't. '82)	Women in Fed. Govt. (Sep't. '81)
Total GS Employees*	36.7%	45.9%
Grades GS 1-4	75.9%	76.0%
Grades 5-6	79.6%	72.8%
Grades GS 7-12	43.2%	34.9%
Grades GS 13-15	9.7%	9.1%
SIS/SES	2.3%	6.1%

The latest figures available on the Federal service are from 1981, thus an exact comparison is not possible. The pattern, however, has been consistent. CIA continues to show a larger percentage of women in grades GS 7-15 than the Federal government but still lags behind in the Senior Intelligence Service (SIS), the equivalent to the Senior Executive Service (SES). The nine percent difference in total female GS employees can be explained by the fact that grades 1-4 (76% female) comprise approximately 18% of the Federal GS workforce but only 1.5% of CIA.

*Including SIS/SES employees.