

§ 16.31

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(b) The investigation may include one or more of the following, at the sole discretion of the FAA:

(1) A review of the written submissions or pleadings of the parties, as supplemented by any informal investigation the FAA considers necessary and by additional information furnished by the parties at FAA request. In rendering its initial determination, the FAA may rely entirely on the complaint and the responsive pleadings provided under this subpart. Each party shall file documents that it considers sufficient to present all relevant facts and argument necessary for the FAA to determine whether the sponsor is in compliance.

(2) Obtaining additional oral and documentary evidence by use of the agency's authority to compel production of such evidence under 49 U.S.C. 40113 and 46104, and 49 U.S.C. 47122. The Administrator's statutory authority to issue compulsory process has been delegated to the Chief Counsel, the Deputy Chief Counsel, the Assistant Chief Counsel for Airports and Environmental Law, and each Assistant Chief Counsel for a region or center.

(3) Conducting or requiring that a sponsor conduct an audit of airport financial records and transactions as provided in 49 U.S.C. 47107 and 47121.

[Doc. No. 27783, 61 FR 54004, Oct. 16, 1996, as amended at Amdt. 16–1 78 FR 56145, Sept. 12, 2013]

§ 16.31 Director's Determinations after investigations.

(a) After consideration of the pleadings and other information obtained by the FAA after investigation, the Director will render an initial determination and serve it upon each party within 120 days of the date the last pleading specified in § 16.23 was due.

(b)(1) The Director's Determination shall include findings of fact and conclusions of law, accompanied by explanations and based upon all material issues of fact, credibility of the evidence, law and discretion presented on the record, together with a statement of the reasons therefor.

(2) The Director shall issue a determination or rule in a party's favor only if the determination or ruling is in accordance with law and supported by a

preponderance of the reliable, probative, and substantial evidence contained in the record.

(c) A party adversely affected by the Director's Determination may appeal the initial determination as provided in § 16.33. However, if the Director's Determination that is appealed contains a Corrective Action Plan, the Director has the discretion to suspend the Corrective Action Plan until the appeal is resolved.

(d) If the Director's Determination finds the respondent in noncompliance and proposes the issuance of a compliance order, the initial determination will include notice of opportunity for a hearing under subpart F of this part if a hearing is required by statute or otherwise provided by the FAA. A hearing may be required by statute if the FAA determination would terminate eligibility for grants under 49 U.S.C. 47114(c) or (e), or terminate payments on a grant agreement under 49 U.S.C. subchapter 471. The respondent may elect or waive a hearing, as provided in subpart E of this part.

(e) The Director will not consider requests for rehearing, reargument, reconsideration, or modification of a Director's Determination without a finding of good cause.

[Amdt. 16–1, 78 FR 56145, Sept. 12, 2013]

§ 16.33 Final decisions without hearing.

(a) The Associate Administrator may transfer to the FAA Assistant Administrator for Civil Rights the responsibility to prepare and issue Final Agency Decisions pursuant to this section for appeals with issues concerning civil rights.

(b) The Associate Administrator will issue a final decision on appeal from the Director's Determination, without a hearing, where—

(1) The complaint is dismissed after investigation;

(2) A hearing is not required by statute and is not otherwise made available by the FAA; or

(3) The FAA provides opportunity for a hearing to the respondent and the respondent waives the opportunity for a hearing as provided in subpart E of this part.