



Guidance on Nondiscrimination in Matters Pertaining to Faith-Based Organizations

Information and Materials for Federal Employees, Intermediary Entities, and
Faith-Based and Neighborhood Organizations
Receiving USDA Financial Assistance

USDA Center for Faith-Based & Neighborhood Partnerships

July 2016

This page intentionally left blank.

Table of Contents

1.	Introduction.....	3
2.	Nondiscrimination Requirements for Direct and Indirect USDA Financial Assistance.....	3
3.	Prohibited Uses of Direct USDA Financial Assistance	4
4.	Preserving Faith-Based Organizations’ Religious Identity.....	5
5.	Separation of Explicitly Religious Activities	6
6.	Guidance for Programs Supported by Direct Financial Assistance.....	6
	A. Separate and Distinct Programs	6
	B. Separate Presentations	7
	C. Explicitly Religious and Anti-Religious Activities	8
	D. Cost Allocation	8
	E. Eligibility, Outreach, and Recruitment	9
	F. Availability of Separate Religious Programs.....	9
7.	Model Guidance on Protections for and Obligations of Organizations That Administer Social Service Programs Supported by USDA Financial Assistance.....	10
8.	Model Guidance on Transparency	12
9.	Model Guidance on Monitoring, Training and Enforcement	13
	A. Introduction.....	13
	B. Agency Compliance.....	14
	C. Grant and Contract Reviewer Training Guide	15
	D. Summary of Principles From Executive Order 13279, as amended by Executive Order 13559, and USDA Implementing Regulations at 7 C.F.R. Part 16	17
	E. Using USDA Funds in Compliance with Constitutional Principles	19
10.	Model Guidance on Protections for and Obligations of Organizations That Administer Social Service Programs Supported by USDA Financial Assistance.....	23
	Appendices.....	25
	A. Executive Order 13279 (Dec. 12, 2002)	25
	B. Executive Order 13559	30
	C. Title 6, C.F.R. part 19	36
	D. Model Notice of Beneficiary Rights and Beneficiary Referral Request.....	42

1. Introduction

The purpose of this guidance is to provide faith-based and other neighborhood organizations that receive financial assistance from the United States Department of Agriculture (USDA) with clear and uniform instructions on fundamental principles that apply to their awards or contracts. Specifically, this guidance addresses certain nondiscrimination requirements for recipients of direct and indirect USDA financial assistance; prohibited religious uses of direct USDA financial assistance; protections and separation requirements to ensure that faith-based groups are able to retain their religious identity after receiving an award; and protections for beneficiaries to ensure that they are not discriminated against on the basis of religion, a religious belief, or a refusal to attend or participate in a religious practice.

USDA's overarching regulation on equal opportunity for religious organizations to participate in USDA assistance programs can be found at [7 CFR Part 16](#). The final rule entitled [Federal Agency Final Regulations Implementing Executive Order 13559: Fundamental Principles and Policymaking Criteria for Partnerships With Faith-Based and Other Neighborhood Organizations](#) (Final Rule) amended 7 CFR Part 16 and directed agencies to provide policy guidance or reference materials on a number of program-specific topics.

This guidance is not a substitute for carefully reviewing the terms and conditions of any grant document or contract, or USDA's regulations on Equal Opportunity for Religious Organizations at 7 C.F.R. part 16, which are included as Appendix C to this guidance (and are referred to throughout this guidance as the USDA regulations).

Please note: Throughout this guidance, except where expressly noted or where inapplicable, "financial assistance" includes both grants and contracts, and "beneficiary" includes a prospective beneficiary. See 7 C.F.R. § 16.2

2. Nondiscrimination Requirements for Direct and Indirect USDA Financial Assistance

Section 2(d) of Executive Order 13279, as amended by Executive Order 13559, applies beneficiary nondiscrimination obligations to direct and indirect aid programs. A *direct* aid program is one where USDA, or an intermediary like a local government, selects a provider and purchase services or awards funds to that provider to carry out a service. An *indirect* aid program is one where USDA or an intermediary provides an individual beneficiary with a voucher, certificate, or similar means of payment, and the beneficiary chooses the service provider. Any organization that participates in a program funded by direct or indirect USDA financial assistance is prohibited from, in providing services or in outreach activities related to such services, discriminating against a program beneficiary on the basis of religion, a religious belief, or a refusal to attend or participate in a religious practice.

While organizations that participate in programs funded by indirect aid cannot turn away beneficiaries on the basis of religion or religious beliefs or lack thereof, they are not required to modify their program activities to accommodate beneficiaries who choose to expend the indirect aid on the organization's program. For example, a faith-based organization that offers a Bible study as part of its programming need not remove that study from its program activities or create

alternative programming for an indirect aid beneficiary who does not wish to participate in the Bible study. Furthermore, the prohibited uses of direct USDA financial assistance described below do not apply to programs funded by indirect USDA financial assistance.

The remainder of this guidance applies only to programs supported either in whole or in part through direct USDA financial assistance, not to programs receiving indirect USDA financial assistance.

3. Prohibited Uses of Direct USDA Financial Assistance

Section 2(g) of Executive Order 13279, as amended by Executive Order 13559, prohibits the use of direct Federal financial assistance to support or engage in “explicitly religious activities,” which includes “activities that involve overt religious content such as worship, religious instruction, or proselytization.”¹ Other examples of explicitly religious activities and materials include devotional exercises, production or dissemination of devotional guides or other religious materials, or counseling in which counselors introduce religious content. More specifically, in the context of social services, providing devotional booklets during a summer food service program or leading a group prayer among beneficiaries receiving Women, Infants, and Children (WIC) assistance are examples of social service activities that are explicitly religious. While it is not feasible to develop a comprehensive list of all “explicitly religious activities,” each of these is an example of an activity that is not religiously neutral because it promotes or endorses religion to beneficiaries.

Application of the prohibition against explicitly religious activity must be consistent with the First Amendment of the U.S. Constitution, which both prevents the government from promoting or sponsoring religion and protects privately initiated religious expression and activities from government interference and discrimination. This means that staff carrying out programs supported by direct USDA financial assistance, and the materials disseminated by staff persons in those programs, must be neutral in their treatment of religion. Neither staff nor materials used in these programs should promote, endorse, or favor religious beliefs over non-religious beliefs, nor should they disparage religious beliefs in any way. Further, they should not express a judgment with regard to religious beliefs or non-belief, or seek to influence the beliefs of participants with respect to religion.

If a local program is directly supported by USDA financial assistance, program administrators should be aware that the bar against use of Federal financial assistance for explicitly religious activities applies to activities, speech, and materials that are generated or controlled by the administrators, instructors, or officials of the USDA financed program. The requirement generally does not apply to the activities of persons whose speech is not controlled, encouraged, or approved after the fact by program administrators, instructors, or officials, such as spontaneous comments made by individual beneficiaries in the context of a USDA program. The Supreme Court has repeatedly held that the First Amendment requires that officials and administrators in publicly-funded programs be neutral in their treatment of religion, showing neither favoritism toward nor hostility against religious expression.

¹ See also 7 C.F.R. 16.2

Direct USDA financial assistance for explicitly religious activities that can be publically funded consistent with the Establishment Clause is constitutionally permissible and necessary under limited circumstances, such as for chaplaincy services. For example, the prohibition against the use of direct USDA financial assistance to support explicitly religious activities may not apply for programs where funds are provided to chaplains to work with detainees in detention facilities, or where funds are provided to religious or other organizations for programs in detention facilities in which such organizations assist chaplains in carrying out their duties.²

If you have questions about whether one of your programs might be exempt from the bar on the use of direct USDA financial assistance for explicitly religious activities, you should consult your USDA program office through the program’s project officer, contracting officer, or other responsible USDA or State official. Determinations will be made on a case-by-case basis, based on applicable Federal law and USDA’s discretion under that law to determine whether and under what conditions the expenditure is appropriate.

4. Preserving Faith-Based Organizations’ Religious Identity

While faith-based organizations need to ensure that programs directly supported by the government comply with the requirement that these programs are religiously neutral, various protections also exist to ensure that faith-based organizations do not have to change their religious identities after receiving a USDA award. Religious entities may receive Federal financial assistance to support social service programs “without impairing their independence, autonomy, expression outside the programs in question, or religious character.”³ Accordingly, a faith-based organization that applies for, or participates in, a social service program supported with Federal financial assistance may continue to carry out its mission in this way, including the definition, development, practice, and expression of its religious beliefs. At the same time, as explained below, it may not use direct Federal financial assistance to support or engage in any explicitly religious activities and those activities must be both separate in time or location from the Federally-funded program and voluntary for beneficiaries.

A faith-based organization may also use its facilities to provide USDA-financed social services without removing or altering religious art, icons, scriptures, or other symbols from the facility. Additionally, a faith-based organization that applies for, or participates in, a social service program supported with USDA financial assistance may retain religious terms in its name, select its board members on a religious basis, and include religious references in its mission statements and other chartering or governing documents. Faith-based organizations that

² See *Cruz v. Beto*, 405 U.S. 319, 322 n.2 (1972) (per curiam) (explaining that “reasonable opportunities must be afforded to all prisoners to exercise the religious freedom guaranteed by the First and Fourteenth Amendments without fear of penalty”); *Katcoff v. Marsh*, 755 F.2d 223, 234 (2d Cir. 1985) (finding it “readily apparent” that the Government is obligated by the First Amendment “to make religion available to soldiers who have been moved by the Army to areas of the world where religion of their own denominations is not available to them”); *Sch. Dist. of Abingdon Twp. v. Schempp*, 374 U.S. 203, 299 (1963) (Brennan, J., concurring) (observing that “hostility, not neutrality, would characterize the refusal to provide chaplains and places of worship for prisoners and soldiers cut off by the State from all civilian opportunities for public communion”).

³ E.O. 13279, § 2(g), 67 FR 77141 (Dec. 16, 2002), as amended by E.O. 13559, § 1(b), 75 FR 71319, 71320 (Nov. 17, 2010); see also 7 C.F.R. § 16.4

provide social services retain these rights while observing the separation requirements described further below.

5. Separation of Explicitly Religious Activities

Section 2(f) of Executive Order 13279, as amended by Executive Order 13559, provides that explicitly religious activities must be separated from programs supported with direct financial assistance from the Federal government:

Organizations that engage in explicitly religious activities (including activities that involve overt religious content such as worship, religious instruction, or proselytization) must perform such activities and offer such services outside of programs that are supported with direct Federal financial assistance (including through prime awards or sub-awards), separately in time or location from any such programs or services supported with direct Federal financial assistance, and participation in any such explicitly religious activities must be voluntary for the beneficiaries of the social service program supported with such Federal financial assistance.⁴

In addition to the worship and religious services that faith-based organizations conduct separately from their Federally-supported project, faith-based organizations may also carry out separate social service programs with explicitly religious activities or content after receiving a Federal award. In some cases, an organization may elect to carry out a separate social service program that is explicitly religious that is similar to the government-funded project. For example, a faith-based organization may carry out two disaster case management programs, one of which is privately-funded and overtly religious, while the other is USDA-supported directly and free of explicitly religious content. But where such religious activities or programs are undertaken, it is especially important for it to be clear that they are separate and distinct, and that participation in the religious activities is voluntary for participants in the USDA-supported program.

6. Guidance for Programs Supported by Direct Financial Assistance

A. *Separate and Distinct Programs*

Recipients of USDA financial assistance must ensure that any program that involves explicitly religious activities (including activities that involve overt religious content such as worship, religious instruction, or proselytization) is separate and distinct from the program that receives direct USDA financial assistance, and that the distinction is completely clear to the beneficiary. *See* E.O. 13279, § 2(f), *as amended by* E.O. 13559, § 1(b), 75 FR at 71320; *see also* 7 C.F.R. § 16.4

Some of the ways to **ensure separate and distinct programs** include, but are not limited to, the following examples:

- creating separate and distinct names for the programs;

⁴ E.O. 13279, § 2(f), *as amended by* E.O. 13559, § 1(b), 75 FR at 71320. This provision is reflected in the USDA regulations at 7 C.F.R. § 16.4

- creating distinct appearances for the materials used to promote each program;
- establishing separate registrations for the programs; and
- promoting only the USDA-supported program in materials, websites or commercials purchased with any portion of direct Federal financial assistance.

Websites with explicitly religious content may include a link to the page promoting the USDA-supported program; subject to applicable grant or contract provisions, the page about the USDA supported program may be supported with direct Federal financial assistance, but the explicitly religious page may not. The USDA-supported page may link to pages with explicitly religious content; however, such links should be accompanied by statements noting that the linked content is separate from the USDA supported program, privately funded, and purely voluntary for beneficiaries.

B. Separate Presentations

Recipients of Federal financial assistance must implement measures to separate the presentation of any program with religious content from the presentation of the USDA-supported program by time or location in such a way that it is clear that the two programs are separate and distinct. When separating the two programs by time but presenting them in the same location, the service provider must ensure that one program completely ends before the other program begins.

Some of the ways in which **separation of presentations** may be accomplished include the following examples:

- The programs are held in completely different sites or on different days.
- If the programs are held at the same site at completely different times, the service provider may separate programs through such means as:
 - having sufficient time between the two programs to vacate the room, turn down the lights, leave the stage, etc., in order to conclude the first program before beginning the second; and
 - completely dismissing the participants of the earlier program.
- If the programs are held in different locations at the same site at the same time, the service provider may separate programs through such means as:
 - completely separating registration locations; and
 - completely separating areas where programs are held such as by room, hallway, or floor.

Note: If an organization offers a USDA-supported program and a privately funded religious program and both provide the same social service, it is especially important that the organization accentuate the separation between the programs. Furthermore, because the law recognizes that children are particularly susceptible to coercion, if the clients served are children, it is particularly important that the separation between the programs be made clear.

C. Explicitly Religious and Anti-Religious Activities

Recipients of USDA financial assistance must ensure that there are no explicitly religious or anti-religious activities in a program supported by direct Federal financial assistance.⁵ These include:

- registration procedures that include religious inquiries or references; and
- program activities that include religious outreach or promotion, endorsement, or favoring of religious beliefs, or activities that are intended to dissuade program participants from holding religious beliefs.

D. Cost Allocation

Recipients of USDA financial assistance must be able to demonstrate that direct Federal financial assistance is only being used for the Federally-supported program.⁶

Some of the ways in which separation of funds may be accomplished include the following examples:

Implement the use of time sheets that keep track of all staff hours charged to the Federally-supported program, whether the staff work in other programs or not.

Require that staff working in both Federally-supported programs and other programs indicate clearly how many hours are spent on each program.

Require that any staff working on both a Federally-supported program and a non-Federally-supported program, at the same site and on the same day, clearly indicate both the number of hours spent on the Federally-supported program and the actual time during which they worked on that program. The hours should reflect that time spent on any program with explicitly religious activity has been completely separated from hours during which time was spent on the Federally-supported program.

Show cost allocations for all items and activities that involve both Federally-supported and non-Federally supported programs, such as staff time, equipment, or other expenses, such as travel to event sites. This may be accomplished through such means as the following:

Example: If staff in the Federally-supported program travel to a site where the organization conducts both a Federally-supported program and a privately-funded religious program, then only one-half of the travel costs (e.g., gas, lodging, and other related expenses) may be charged to the Federal program. If the award recipient conducts three separate and distinct programs at one site, and one of the programs is Federally-supported, then only one-third of the travel costs may be charged to the Federal program.

⁵ See E.O. 13279, § 2(g), as amended by E.O. 13559, § 1(b), 75 FR at 71320; see also 7 C.F.R. § 16.4

⁶ See 2 CFR 200.430 (2014) (Cost Principles—Compensation—Personal Services); 48 CFR 31.201-4(b) (Contracts With Commercial Organizations—Determining Allocability).

Example: If an electronic device is used 30% of the time for the Federally-supported program, this use should be documented through clear record keeping. Only 30% of the cost of the electronic device may be charged to the Federally-supported program.

E. Eligibility, Outreach, and Recruitment

Recipients of USDA financial assistance must ensure that the Federally-supported program is open to all qualified beneficiaries, regardless of their religion or religious belief, refusal to hold a religious belief, or refusal to attend or participate in a religious practice.⁷ USDA award recipients may not establish selection criteria that have the effect of discriminating against beneficiaries based on religion or non-religion. Accordingly, USDA funded programs may not limit outreach, recruitment efforts, or advertising of the Federal program services exclusively to religious or non-religious target populations.

F. Availability of Separate Religious Programs

After the USDA-supported program has ended, a staff person may provide a brief and non-coercive invitation to program participants to attend a separate religious program. The demarcation between the Federally-supported program and the religious program must at all times be clear. The invitation must emphasize that the religious program is a separate program from, and not a continuation of, or complementary to, the USDA-supported program. It also must be clear that participants are not required to attend the separate religious program, and that participation in Federally-supported programs is not contingent on participation in other programs sponsored by the organization. If the beneficiaries are children, then Federally-supported programs should obtain parental consent before inviting the children to separate religious activities in order to ensure that the invitation is non-coercive and that participation is voluntary.

⁷ See E.O. 13279, § 2(d), as amended by E.O. 13559, § 1(b), 75 FR at 71320; 7 C.F.R. § 16.2

7. Model Guidance on Protections for and Obligations of Organizations That Administer Social Service Programs Supported by USDA Financial Assistance

The following material may be used in presentations for government employees and/or staff of intermediary entities and faith-based and neighborhood organizations that receive Federal financial assistance.

Protections

- In the administration or distribution of USDA financial assistance under social service programs, governmental officials and bodies must not discriminate against organizations based on their religious character or affiliation, or lack thereof.
- Organizations must be permitted to compete for USDA financial assistance used to support social service programs and to participate fully in the social service programs supported with Federal financial assistance without impairing their independence, autonomy, expression outside the programs in question or religious character.
- Organizations may retain their independence and ability to carry out their missions, including the definition, development, practice, and expression of their religious beliefs, provided that organizations do not use direct Federal financial assistance to support any explicitly religious activities (including activities involving overt religious content such as worship, religious instruction, or proselytizing) or in any other manner prohibited by law.
- Organizations may conduct privately funded religious activities that are separated in time or location from activities funded by direct USDA financial assistance and are purely voluntary for beneficiaries of such assistance.
- Organizations may use their facilities to provide social services supported with USDA financial assistance, without removing or altering religious art, icons, scriptures, or other symbols from these facilities.
- Organizations may retain religious terms in organizational names, select board members on a religious basis, and include religious references in organizational mission statements and other chartering or governing documents.
- Organizations must not be subjected to regulation or monitoring that would create excessive entanglement between the government and religious entities.

Obligations

- Organizations must not discriminate against beneficiaries on the basis of religion or religious belief or a refusal to attend or participate in a religious practice.
- Organizations must conduct their outreach activities in ways that do not favor or disfavor beneficiaries based on their religious beliefs or lack thereof.

- Organizations must provide beneficiaries with written notice of certain protections prior to the time they enroll in programs supported by direct Federal financial assistance.

- Organizations that offer activities that are supported by direct USDA financial assistance as well as privately funded explicitly religious activities (activities involving overt religious content such as worship, religious instruction or proselytization) must separate, in time or location, these privately funded explicitly religious activities from any programs or services supported with direct USDA financial assistance and ensure that beneficiaries' participation in such programs is voluntary.

- If a beneficiary objects to the religious character of an organization that provides services under the program, the organization must promptly undertake reasonable efforts to refer the beneficiary to an alternative provider. If the organization is unable to identify an alternative provider, the organization must notify USDA or an intermediary entity.

- Organizations that receive USDA financial assistance must comply with applicable laws and regulation. By virtue of their acceptance of such assistance, organizations also agree to appropriate monitoring and enforcement of these standards.

8. Model Guidance on Transparency

This guidance should be given to government employees so that they will have clear instructions on transparency obligations under Executive Order 13279, as amended by Executive Order 13559. To promote transparency and accountability, the agency will post online, in an easily accessible manner, regulations, guidance documents, and policies that reflect or elaborate upon the fundamental principles described in the executive orders. Federal agencies will also post online a list of entities that receive Federal financial assistance for the provision of social service programs.

1. Agencies should determine which regulations, guidance documents, and policies should be posted online, based on a presumption of disclosure and consistent with their Open Government plans. The following categories of policies should generally be posted online:

- Policies to provide guidance on equitable competition for direct Federal financial assistance used to support social service programs. *See* E.O. 13279, §§ (2)(b) & (g), *as amended* by E.O. 13559, § 1(b), 75 FR at 71319, 71320.
- Policies to ensure separation in time or location of explicitly religious activities from programs or services supported with direct Federal financial assistance. *See id.* § (2)(f), 75 FR at 71320.
- Policies to implement Federal programs in compliance with the Establishment and Free Exercise Clauses (including prohibited uses of direct Federal financial assistance). *See id.* § (2)(e).
- Policies and procedures that provide guidance to ensure that social service providers of a Federal program make appropriate and timely referrals to an alternative provider, where beneficiaries object to the religious character of an organization that provides the Federally-supported social service program. *See id.* § (2)(h), 75 FR at 71320–21.
- Policies regarding the award of direct Federal financial assistance, including policies providing that decisions must be made on the basis of merit, not on the basis of religious affiliation of the recipient organization or lack thereof, free from political interference or even the appearance of such interference. *See id.* § (2)(j), 75 FR at 71321.

This information should be made readily available to the public. Executive departments and agencies should also solicit public feedback to identify information of greatest use to the public.

2. Agencies need not provide a separate posting of entities that receive direct Federal financial assistance, where such information is publicly displayed on USAspending.gov, pursuant to the Federal Funding Accountability and Transparency Act of 2006, Pub. L. 109-282. USAspending.gov is a single searchable website, accessible to the public at no cost. An advanced search feature allows the public to search the data by criteria including Catalog of Federal Domestic Assistance Program Number, funding agency, fiscal year, type of recipient (including nonprofit) and keyword. The Working Group determined that section (2)(i) of Executive Order 13279, as amended by Executive Order 13559, does not require that Federal agencies differentiate between recipients based on whether or not they are faith-based. This

determination is consistent with the Advisory Council’s Report of Recommendations to the President. *See* Advisory Council Report, Recommendation 8, at 135–36.

9. Model Guidance on Monitoring, Training and Enforcement

This guidance should be given to USDA employees so that they will have clear instructions on monitoring, training, and enforcement obligations under Executive Order 13279, as amended by Executive Order 13559, and as implemented in 7 C.F.R. Part 16.

A. Introduction

To guard against inappropriate uses of direct Federal financial assistance, the Government must monitor and enforce the constitutional, statutory, and regulatory standards that govern social service financial assistance. The obligation to monitor and enforce these standards applies to all such financial assistance, whether they flow to religious or secular organizations, and the Government should not assume that one class of providers is more apt to violate applicable standards than another. There is, however, a component of the Government’s monitoring obligation that is constitutionally mandated and specifically focused on religion-related issues. The First Amendment requires the Government to monitor the activities and programs it funds to ensure that they comply with church-state requirements, including the prohibition against the use of direct Federal financial assistance in a manner that results in governmental indoctrination on religious matters.⁸

At the same time, the Government must respect the constitutional command against excessive entanglement between government and religion.⁹ So, for example, the Government need not and should not engage in “pervasive monitoring” of religious bodies.¹⁰ The Supreme Court has said that excessive entanglement includes “comprehensive, discriminating, and continuing state surveillance.” *Id.* at 619. Also, oversight need not constitute a “failsafe mechanism capable of detecting *any* instance of diversion” of government aid to religious use.¹¹ But the Government clearly fails to discharge its responsibilities if its safeguards “exist in theory only” or “only on paper.”¹²

In several cases involving government funds administered by nongovernmental organizations, including religious institutions, the Supreme Court has found that a variety of methods of monitoring meet these standards. For example, the Supreme Court has upheld an educational aid program in which various levels of government engaged in monitoring activities

⁸ *See Bowen v. Kendrick*, 487 U.S. 589, 615 (1988) (“There is no doubt that the monitoring of [government] grants is necessary if the [government] is to ensure that public money is to be spent in the way that Congress intended and in a way that comports with the Establishment Clause.”); *Comm. for Pub. Educ. & Religious Liberty v. Nyquist*, 413 U.S. 756, 780 (1973) (“In the absence of an effective means of guaranteeing that the state aid derived from public funds will be used exclusively for secular, neutral, and nonideological purposes, it is clear from our cases that direct aid in whatever form is invalid.”).

⁹ *Lemon v. Kurtzman*, 403 U.S. 602, 613 (1971).

¹⁰ *Id.* at 627.

¹¹ *Mitchell v. Helms*, 530 U.S. 793, 861 (1999) (O’Connor & Breyer, JJ., concurring in the judgment) (emphasis in original).

¹² *Freedom From Religion Found. v. McCallum*, 179 F. Supp. 2d 950, 976, 977 (W.D. Wisc. 2002).

such as (1) requiring participating nonpublic schools to sign assurances that they would use Federal funds only for “secular, neutral and nonideological purposes” and retaining the power to cut off aid in the event of failure to abide by these promises; (2) requiring nonpublic schools to submit applications with project plans for approval; (3) visiting nonpublic schools once a year and conducting follow-up visits when necessary; and (4) conducting random reviews of materials used in the government-funded programs.¹³ The Court has also determined that government review of educational materials and programs coupled with periodic site visits is another way of meeting constitutional requirements in this area.¹⁴ In 1976, the Court upheld a program that required nongovernmental educational institutions to promise that the aid they received would not be used for sectarian purposes.¹⁵ These nongovernmental bodies also were required to describe specific nonsectarian uses of government funds and to file reports itemizing the use of such funds.

B. Agency Compliance

Executive Order 13559 amended Executive Order 13279 to describe the Government’s obligation to monitor and enforce constitutional, statutory, and regulatory requirements relating to the use of Federal financial assistance, including the constitutional obligation to monitor and enforce church-state standards in ways that avoid excessive entanglement between religion and government. Agencies should comply with those requirements by taking the following steps:

Monitoring Plans. Agencies should formulate and make public an agency plan for monitoring compliance with this guidance, specifying who will do the monitoring and what measures they will use. Agencies should provide a public summary of their monitoring activities. All grants and contracts involving Federally-supported social services should set forth applicable responsibilities and restrictions. Church-state safeguards also should be included in the monitoring tools used in the audit required of non-Federal entities expending \$500,000 or more annually in direct Federal financial assistance and in all other audits of non-Federal entities receiving direct Federal financial assistance.

Training Plans. Agencies should develop training plans that cover training of both internal personnel and grant recipients.

Enforcement. Agencies should develop and implement plans for enforcement or corrective action in the event of non-compliance. In addition, when addressing recommendation 9 of the Advisory Council Report, the Working Group identified six monitoring measures that Federal staff should be encouraged to use to oversee Federally-financed programs and to ensure compliance with the Executive Orders. Those measures, listed below under “Recommendations for Monitoring Faith-Based and Neighborhood Recipients of Financial Assistance,” should be used by Federal agencies when developing monitoring plans:

Recommendations for Monitoring Faith-Based and Neighborhood Recipients of Direct Federal Financial Assistance. All Federal agency staff tasked with monitoring the recipients of

¹³ *Mitchell v. Helms*, 530 U.S. at 861–63 (O’Connor & Breyer, JJ., concurring in the judgment).

¹⁴ *Bowen v. Kendrick*, 487 U.S. at 615–17.

¹⁵ *Roemer v. Bd. of Pub. Works*, 426 U.S. 736, 742–43 (1976).

Federal awards should ensure that they comply with the terms and conditions of their particular awards as well as any applicable rules, regulations, OMB circulars, and other governing authorities. Among the program requirements that Federal agencies routinely oversee through monitoring measures, Federal programs should ensure that service providers administer programs that comply with rules and policies implementing Executive Orders 13279 and 13559, in consultation with Federal agencies' civil rights and grant offices. Grant and contracting officers, as well as program specialists, must monitor awards through effective methods, which may include the following:

1. Conducting monitoring-related phone calls;
2. Reviewing grant-related documents and reports that include, but are not limited to:
 - a. periodic financial and progress reports;
 - b. audit reports or financial statements prepared by an independent, government-approved, Certified Public Accountant;
 - c. specialized programmatic reports; and
 - d. reports to appropriate payment points (in accordance with instructions received from the payment office);
3. Reviewing recent or relevant audit reports from the Office of Inspector General (if conducted);
4. Conducting site visits;
5. Conducting "desk reviews," such as internet searches, where appropriate; and
6. Conducting conferences, roundtables, and workshops.

These methods are among the measures that should be used to discern whether recipients and sub-recipients are in compliance with Executive Orders 13279 and 13559 and 7 C.F.R. Part 16.

C. Grant and Contract Reviewer Training Guide

The following guidance provides additional information for individuals who review applications or proposals for awards of Federal financial assistance.

Persons who review applications for Federally-financed grants and contracts should be aware that faith-based organizations must be considered for awards in Federally-financed projects to which they are otherwise eligible and should be neither favored nor disfavored on the basis of religion or religious belief. Such award decisions must be free from political interference or even the appearance of such interference, and must be made on the basis of merit, not the basis of the religious character or affiliation, or lack thereof. There are restrictions as to how the projects may be carried out, and reviewing staff should identify any application information that indicates that a project has been proposed to undertake activities that violate principles in Executive Order 13279, as amended by Executive Order 13559, and as implemented in 7 C.F.R. Part 16. If answers to any of the following questions are affirmative, then the application should be flagged by the reviewer so that the awarding agency may resolve the issue prior to funding the proposed project:

1. Does the applicant propose to use direct Federal financial assistance for “explicitly religious activities (including activities that involve overt religious content such as worship, religious instruction, or proselytization)”? For example, does the applicant propose to use direct Federal financial assistance to pay for religious activities like devotional studies of sacred scriptures, worship services, or religious items like Bibles or prayer books?
2. Does the applicant propose to integrate “explicitly religious activities” (activities that involve overt religious content such as worship, religious instruction, or proselytization) into a program supported with direct Federal financial assistance? For example, does the applicant propose to include religious instruction into the Federally-supported program?
3. Does the applicant propose to discriminate against program beneficiaries or applicants based on religion or religious belief, a refusal to hold a religious belief, or a refusal to attend or participate in a religious practice?
4. Are outreach or recruitment efforts for the Federally-supported programs targeted exclusively or primarily to religious groups or exclusively to non-religious groups? For example, does the application state that the Federally-supported program will be publicized only at a church, or in a synagogue, mosque or temple newsletter, without identifying other ways that it will also be publicized to inform persons who don’t attend such religious institutions?
5. After receiving the award, does the recipient of direct Federal financial assistance intend to select new project partners based on religious considerations by considering, for example, only organizations that are religious or share a similar faith affiliation or by considering only organizations that are non-religious?
6. Does the applicant of direct Federal financial assistance propose to require or encourage beneficiaries to participate in explicitly religious activities?

Reviewing staff also should remain mindful of various activities and measures that are protected and that should not be regarded as a potential violation of the principles in Executive Order 13279, as amended by Executive Order 13559 and as implemented in 7 C.F.R. Part 16, as follows:

1. Faith-based organizations may conduct explicitly religious activities and programs with private funds outside of a program supported by direct Federal financial assistance, provided that the explicitly religious activities are not only privately funded but also separate in time or location from the government-supported program and voluntary for participants in the Federally financed programs.
2. Faith-based organizations providing Federally-supported social services are free to maintain their religious character, and therefore do not need to remove

religious art, icons, and symbols from the facility in which the proposed project will be held.

If you are unsure as to whether any particular area of concern complies with these principles, please err on the side of raising the concern with the awarding entity. Staff will then review the matter prior to awarding.

D. Summary of Principles From Executive Order 13279, as amended by Executive Order 13559, and USDA Implementing Regulations at 7 C.F.R. Part 16

The following material may be used in presentations for government employees and/or staff of faith-based and neighborhood organizations that receive Federal financial assistance.

When competing for Federal financial assistance for which they are otherwise eligible, faith-based organizations are to be treated the same as non-faith-based organizations.

The government and any grantee or intermediary¹⁶ may not refuse to review an award application or make an award based on the organization's religious character, religious affiliation, or lack thereof.

Direct Federal financial assistance may not be used to support explicitly religious activities (including activities involving overt religious content such as worship, religious instruction, or proselytizing).

Do not use direct Federal financial assistance for activities such as religious worship, religious instruction, or proselytizing. Do not use direct Federal financial assistance for materials that endorse, promote or denigrate religion.

Do not integrate privately-funded explicitly religious activities into activities supported by direct Federal financial assistance.

Note: The use of Federal financial assistance in circumstances where the courts have allowed such funding under the Establishment Clause, such as for chaplaincy services, is not subject to this restriction.

Faith-based organizations may conduct privately funded explicitly religious activities (including activities involving overt religious content such as worship, religious instruction, or proselytizing) separate from activities supported by direct Federal financial assistance.

Any explicitly religious activities must be privately funded.

Privately funded explicitly religious activities must be separate in time or location from programs supported by direct Federal financial assistance and must be voluntary for program participants.

Direct Federal financial assistance must be separately and carefully accounted for.

Faith-based organizations are free to maintain their religious character.

There is no need to remove religious art, icons, or symbols from facilities.

Faith-based organizations may retain authority over their internal governance.

Organizations that are awarded Federal financial assistance may not discriminate against program beneficiaries based on religion, religious belief, refusal to hold a religious belief, or refusal to attend or participate in a religious practice.

Do not discriminate against beneficiaries based on religion or religious belief. Do not discriminate against beneficiaries who do not hold a particular religious belief, or any religious belief, or who refuse to attend or participate in any religious practice, or in all religious practices.

Make it clear to beneficiaries that they are not required to attend or participate in any privately funded explicitly religious activities that are offered by the organization.

Ensure that any privately funded explicitly religious activities that are offered by the provider are separated in time or location from activities funded by direct Federal financial assistance.

These non-discrimination requirements apply to any services funded in whole or in part with Federal financial assistance.

If a beneficiary or prospective beneficiary of a social service program supported by direct Federal financial assistance objects to the religious character of an organization that provides services under the Federal program, that organization shall promptly undertake reasonable efforts to identify and refer the beneficiary to an alternative provider to which the prospective beneficiary has no objection.

The referral should be to an alternative provider that is in reasonable geographic proximity to the organization making the referral and that offers services that are similar in substance and quality to those offered by the organization making the referral. The alternative provider also must have the capacity to accept additional clients. If a Federally-supported alternative provider meets these requirements and is acceptable to the beneficiary, a referral should be made to that provider. If, however, there is no Federally-supported alternative provider that meets these requirements and is acceptable to the beneficiary, a referral should be made to an alternative provider that does not receive Federal support but does meet these requirements and is acceptable to the beneficiary. .

When the organization makes a referral to an alternative provider, it must keep a record. When the organization determines that it is unable to identify an alternative provider after making reasonable efforts, it shall both keep a record and notify USDA or an intermediary.

After a referral has been made, the organization should follow up with the beneficiary or prospective beneficiary, or with the alternative provider, when authorized to do so by the

beneficiary or prospective beneficiary, to determine whether the beneficiary or the prospective beneficiary contacted the alternative provider or providers.

However, when appropriate, USDA may require the awarding entity to provide organizations information about alternate providers, and the organization that provides services may rely on that information to fulfill its duty under this proposed rule. For example, in the case of The Emergency Food Assistance Program (TEFAP), a State Distributing Agency may provide contact information for beneficiaries of publicly available Web sites or telephone “hotlines” that direct individuals to local emergency kitchens or pantries, a list of the emergency kitchens or pantries to which the State Distributing Agency distributes food, or another applicable directory or list of food assistance. It must be noted that in some instances, the awarding entity may also be unable to identify a suitable alternate provider within a reasonable geographic proximity.

Grantees shall ensure that all sub-recipient agreements make organizations receiving program assistance aware of these requirements.

E. Using USDA Funds in Compliance with Constitutional Principles

The following material may be used in presentations for USDA employees and/or staff of intermediary entities and faith-based and neighborhood organizations that receive USDA financial assistance by grant or contract.

Directions: Select the correct answer for each of the following questions.

This questionnaire is intended as a learning exercise rather than as legal advice. In practice, the answers may vary depending on the facts in any particular instance. If these questions provoke further questions, please make a note so that you may follow up during the group discussion time.

1. Faith-based organizations that receive USDA financial assistance must serve all eligible participants regardless of those persons’ religious beliefs. True or False?

2. Recipients of USDA financial assistance, including State and local governments, may not discriminate in the provision of program services on the basis of religion. True or False?

3. Faith-based organizations receiving USDA financial assistance may require that beneficiaries profess a certain faith or participate in religious activities in order to receive the Federally-supported services. True or False?

4. Grantees and their project partners that administer USDA-supported programs have many of the same responsibilities as the government in that they cannot favor or disfavor faith-based organizations on the basis of their _____. (Fill in the blank.)

5. An intermediary organization that awards sub-grants can prefer faith-based charities in its selection process. True or False?

6. An intermediary organization that awards sub-grants can prefer non-religious charities in its selection process. True or False?

7. There is no money set aside by USDA for faith-based organizations to receive a designated portion of awards in USDA social services. True or False?

8. Federal grant funds may be used to buy religious materials as long as the materials are used in a social service program serving the needy. True or False?

9. A rabbi may teach a relationship skills seminar to ex-offenders as part of a USDA grant program when worship services or other explicitly religious activities are separated by time or location, are voluntary for participants in the Federal program, and are privately funded. True or False?

10. A grantee or contractor can integrate religious instruction into a program supported with direct USDA financial assistance so long as that assistance is not used to pay for the religious instruction. True or False?

11. A grantee or contractor may limit outreach regarding its USDA-supported program to churches sharing its denomination/affiliation. True or False?

12. Beneficiaries of a social service program supported with direct USDA financial assistance can be actively encouraged to attend a religious class that is privately funded, so long as they aren't required to attend. True or False?

13. A church receiving direct USDA financial assistance may not invite a client to attend a Bible study even if it is optional and her choice to attend, and doesn't affect the services she will receive in the Federally-supported program. True or False?

14. Organizations that receive a USDA grant or contract must hold explicitly religious activities at a different _____ or _____ than Federally-supported services. (Fill in the blanks.)

15. For each item, check the appropriate column, indicating whether the activity is explicitly religious (and therefore not an allowable expense) or an allowable expense for direct USDA financial assistance. The answers may vary depending on the facts in any particular instance:

	Explicitly Religious	Allowable Expense for Direct USDA Funds
a. Worship expenses		
b. Secular marriage education curriculum purchased by a faith-based or neighborhood organization		
c. Religious instructional materials		
d. Bible study		
e. Prayer newsletter		
f. Staff training for direct service program delivery		

	Explicitly Religious	Allowable Expense for Direct USDA Funds
g. Church staff hours spent on religious activities		
h. Church staff hours spent on delivering government-funded program services		
i. Printing a devotional booklet for a social service program		
j. Printing a training booklet for a government-funded program that does not include language that endorses religion or proselytizes		

16. If a charity receives direct USDA financial assistance for providing a public service, then USDA requires that the charity abandon its religious character. True or False?

17. Facility space used to provide a USDA-funded service may not ever be used for religious purposes and must not display any religious symbols. True or False?

18. An organization may receive direct USDA financial assistance and maintain a religious name and religious references in its chartering documents. True or False?

19. A church that operates a social service program supported by direct USDA financial assistance can purchase explicitly religious curricula if the provider pays for the materials with its own funds and the materials will be used only in programs that are privately funded, are optional for beneficiaries, and are separate from the Federally-supported program. True or False?

20. The government violates the Constitution if it requires a faith-based organization that receives direct Federal financial assistance to demonstrate that such funding has only been used for non-religious activities. True or False?

Answer Key:

1. True	11. False
2. True	12. False
3. False	13. False
4. Fill in the blank: “religious character or affiliation.”	14. Fill in the blanks: “time” or “location”
5. False	15. See chart below
6. False	16. False
7. True	17. False
8. False	18. True
9. True	19. True
10. False	20. False

	Explicitly Religious	Allowable Expense for Direct USDA Funds
a. Worship expenses	Yes	
b. Secular marriage education curriculum purchased by a faith-based or neighborhood organization		Yes
c. Religious instructional materials	Yes	
d. Bible study	Yes	
e. Prayer newsletter	Yes	
f. Staff training for direct service program delivery		Yes
g. Church staff hours spent on religious activities	Yes	
h. Church staff hours spent on delivering government-funded program services		Yes
i. Printing a devotional booklet for a social service program	Yes	
j. Printing a training booklet for a government-funded program that does not include language that endorses religion or proselytizes		Yes

10. Model Guidance on Protections for and Obligations of Organizations That Administer Social Service Programs Supported by USDA Financial Assistance

The following material may be used in presentations for government employees and/or staff of intermediary entities and faith-based and neighborhood organizations that receive Federal financial assistance.

Protections

- In the administration or distribution of USDA financial assistance under social service programs, governmental officials and bodies must not discriminate against organizations based on their religious character or affiliation, or lack thereof.
- Organizations must be permitted to compete for USDA financial assistance used to support social service programs and to participate fully in the social service programs supported with Federal financial assistance without impairing their independence, autonomy, expression outside the programs in question or religious character.
- Organizations may retain their independence and ability to carry out their missions, including the definition, development, practice, and expression of their religious beliefs, provided that organizations do not use direct Federal financial assistance to support any explicitly religious activities (including activities involving overt religious content such as worship, religious instruction, or proselytizing) or in any other manner prohibited by law.
- Organizations may conduct privately funded religious activities that are separated in time or location from activities funded by direct USDA financial assistance and are purely voluntary for beneficiaries of such assistance.
- Organizations may use their facilities to provide social services supported with USDA financial assistance, without removing or altering religious art, icons, scriptures, or other symbols from these facilities.
- Organizations may retain religious terms in organizational names, select board members on a religious basis, and include religious references in organizational mission statements and other chartering or governing documents.
- Organizations must not be subjected to regulation or monitoring that would create excessive entanglement between the government and religious entities.

Obligations

- Organizations must not discriminate against beneficiaries on the basis of religion or religious belief or a refusal to attend or participate in a religious practice.
- Organizations must conduct their outreach activities in ways that do not favor or disfavor beneficiaries based on their religious beliefs or lack thereof.

- Organizations must provide beneficiaries with written notice of certain protections prior to the time they enroll in programs supported by direct Federal financial assistance.

- Organizations that offer activities that are supported by direct USDA financial assistance as well as privately funded explicitly religious activities (activities involving overt religious content such as worship, religious instruction or proselytization) must separate, in time or location, these privately funded explicitly religious activities from any programs or services supported with direct USDA financial assistance and ensure that beneficiaries' participation in such programs is voluntary.

- If a beneficiary objects to the religious character of an organization that provides services under the program, the organization must promptly undertake reasonable efforts to refer the beneficiary to an alternative provider. If the organization is unable to identify an alternative provider, the organization must notify USDA or an intermediary entity.

- Organizations that receive USDA financial assistance must comply with applicable laws and regulation. By virtue of their acceptance of such assistance, organizations also agree to appropriate monitoring and enforcement of these standards.

Appendices

A. Executive Order 13279 (Dec. 12, 2002)

Equal Protection of the Laws for Faith-Based and Community Organizations

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 121(a) of title 40, United States Code, and section 301 of title 3, United States Code, and in order to guide Federal agencies in formulating and developing policies with implications for faith-based organizations and other community organizations, to ensure equal protection of the laws for faith-based and community organizations, to further the national effort to expand opportunities for, and strengthen the capacity of, faith-based and other community organizations so that they may better meet social needs in America's communities, and to ensure the economical and efficient administration and completion of Government contracts, it is hereby ordered as follows:

Section 1. Definitions. For purposes of this order:

(a) "Federal financial assistance" means assistance that non-Federal entities receive or administer in the form of grants, contracts, loans, loan guarantees, property, cooperative agreements, food commodities, direct appropriations, or other assistance, but does not include a tax credit, deduction, or exemption.

(b) "Social service program" means a program that is administered by the Federal Government, or by a State or local government using Federal financial assistance, and that provides services directed at reducing poverty, improving opportunities for low-income children, revitalizing low-income communities, empowering low-income families and low-income individuals to become self-sufficient, or otherwise helping people in need. Such programs include, but are not limited to, the following:

(i) child care services, protective services for children and adults, services for children and adults in foster care, adoption services, services related to the management and maintenance of the home, day care services for adults, and services to meet the special needs of children, older individuals, and individuals with disabilities (including physical, mental, or emotional disabilities);

(ii) transportation services;

(iii) job training and related services, and employment services;

(iv) information, referral, and counseling services;

(v) the preparation and delivery of meals and services related to soup kitchens or food banks;

- (vi) health support services;
- (vii) literacy and mentoring programs;
- (viii) services for the prevention and treatment of juvenile delinquency and substance abuse, services for the prevention of crime and the provision of assistance to the victims and the families of criminal offenders, and services related to intervention in, and prevention of, domestic violence; and
- (ix) services related to the provision of assistance for housing under Federal law.

(c) “Policies that have implications for faith-based and community organizations” refers to all policies, programs, and regulations, including official guidance and internal agency procedures, that have significant effects on faith-based organizations participating in or seeking to participate in social service programs supported with Federal financial assistance.

(d) “Agency” means a department or agency in the executive branch.

(e) “Specified agency heads” mean the Attorney General, the Secretaries of Agriculture, Education, Health and Human Services, Housing and Urban Development, and Labor, and the Administrator of the Agency for International Development.

Sec. 2. *Fundamental Principles and Policymaking Criteria.*

In formulating and implementing policies that have implications for faith-based and community organizations, agencies that administer social service programs supported with Federal financial assistance shall, to the extent permitted by law, be guided by the following fundamental principles:

(a) Federal financial assistance for social service programs should be distributed in the most effective and efficient manner possible;

(b) The Nation’s social service capacity will benefit if all eligible organizations, including faith-based and other community organizations, are able to compete on an equal footing for Federal financial assistance used to support social service programs;

(c) No organization should be discriminated against on the basis of religion or religious belief in the administration or distribution of Federal financial assistance under social service programs;

(d) All organizations that receive Federal financial assistance under social services programs should be prohibited from discriminating against beneficiaries or potential beneficiaries of the social services programs on the basis of religion or religious belief. Accordingly, organizations, in providing services supported in whole or in part with

Federal financial assistance, and in their outreach activities related to such services, should not be allowed to discriminate against current or prospective program beneficiaries on the basis of religion, a religious belief, a refusal to hold a religious belief, or a refusal to actively participate in a religious practice;

(e) The Federal Government must implement Federal programs in accordance with the Establishment Clause and the Free Exercise Clause of the First Amendment to the Constitution. Therefore, organizations that engage in inherently religious activities, such as worship, religious instruction, and proselytization, must offer those services separately in time or location from any programs or services supported with direct Federal financial assistance, and participation in any such inherently religious activities must be voluntary for the beneficiaries of the social service program supported with such Federal financial assistance; and

(f) Consistent with the Free Exercise Clause and the Free Speech Clause of the Constitution, faith-based organizations should be eligible to compete for Federal financial assistance used to support social service programs and to participate fully in the social service programs supported with Federal financial assistance without impairing their independence, autonomy, expression, or religious character. Accordingly, a faith-based organization that applies for or participates in a social service program supported with Federal financial assistance may retain its independence and may continue to carry out its mission, including the definition, development, practice, and expression of its religious beliefs, provided that it does not use direct Federal financial assistance to support any inherently religious activities, such as worship, religious instruction, or proselytization. Among other things, faith-based organizations that receive Federal financial assistance may use their facilities to provide social services supported with Federal financial assistance, without removing or altering religious art, icons, scriptures, or other symbols from these facilities. In addition, a faith-based organization that applies for or participates in a social service program supported with Federal financial assistance may retain religious terms in its organization's name, select its board members on a religious basis, and include religious references in its organization's mission statements and other chartering or governing documents.

Sec. 3. *Agency Implementation.*

(a) Specified agency heads shall, in coordination with the White House Office of Faith-Based and Community Initiatives (White House OFBCI), review and evaluate existing policies that have implications for faith-based and community organizations in order to assess the consistency of such policies with the fundamental principles and policymaking criteria articulated in section 2 of this order.

(b) Specified agency heads shall ensure that all policies that have implications for faith-based and community organizations are consistent with the fundamental principles

and policymaking criteria articulated in section 2 of this order. Therefore, specified agency heads shall, to the extent permitted by law:

(i) amend all such existing policies of their respective agencies to ensure that they are consistent with the fundamental principles and policymaking criteria articulated in section 2 of this order;

(ii) where appropriate, implement new policies for their respective agencies that are consistent with and necessary to further the fundamental principles and policymaking criteria set forth in section 2 of this order; and

(iii) implement new policies that are necessary to ensure that their respective agencies collect data regarding the participation of faith-based and community organizations in social service programs that receive Federal financial assistance.

(c) Within 90 days after the date of this order, each specified agency head shall report to the President, through the Director of the White House OFBCI, the actions it proposes to undertake to accomplish the activities set forth in sections 3(a) and (b) of this order.

Sec. 4. *Amendment of Executive Order 11246.*

Pursuant to section 121(a) of title 40, United States Code, and section 301 of title 3, United States Code, and in order to further the strong Federal interest in ensuring that the cost and progress of Federal procurement contracts are not adversely affected by an artificial restriction of the labor pool caused by the unwarranted exclusion of faith-based organizations from such contracts, section 204 of Executive Order 11246 of September 24, 1965, as amended, is hereby further amended to read as follows:

“SEC. 204 (a) The Secretary of Labor may, when the Secretary deems that special circumstances in the national interest so require, exempt a contracting agency from the requirement of including any or all of the provisions of Section 202 of this Order in any specific contract, subcontract, or purchase order.

(b) The Secretary of Labor may, by rule or regulation, exempt certain classes of contracts, subcontracts, or purchase orders (1) whenever work is to be or has been performed outside the United States and no recruitment of workers within the limits of the United States is involved; (2) for standard commercial supplies or raw materials; (3) involving less than specified amounts of money or specified numbers of workers; or (4) to the extent that they involve subcontracts below a specified tier.

(c) Section 202 of this Order shall not apply to a Government contractor or subcontractor that is a religious corporation, association, educational institution, or society, with respect to the employment of individuals of a particular religion to perform work connected with the carrying on by such corporation, association, educational institution, or society of its activities. Such contractors and subcontractors are

not exempted or excused from complying with the other requirements contained in this Order.

(d) The Secretary of Labor may also provide, by rule, regulation, or order, for the exemption of facilities of a contractor that are in all respects separate and distinct from activities of the contractor related to the performance of the contract: provided, that such an exemption will not interfere with or impede the effectuation of the purposes of this Order: and provided further, that in the absence of such an exemption all facilities shall be covered by the provisions of this Order.’’

Sec. 5. *General Provisions.*

(a) This order supplements but does not supersede the requirements contained in Executive Orders 13198 and 13199 of January 29, 2001.

(b) The agencies shall coordinate with the White House OFBCI concerning the implementation of this order.

(c) Nothing in this order shall be construed to require an agency to take any action that would impair the conduct of foreign affairs or the national security.

Sec. 6. *Responsibilities of Executive Departments and Agencies.* All executive departments and agencies (agencies) shall:

(a) designate an agency employee to serve as the liaison and point of contact with the White House OFBCI; and

(b) cooperate with the White House OFBCI and provide such information, support, and assistance to the White House OFBCI as it may request, to the extent permitted by law.

Sec. 7. *Judicial Review.*

This order is intended only to improve the internal management of the executive branch, and it is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by a party against the United States, its agencies, or entities, its officers, employees or agents, or any person.

[signed] George W. Bush

THE WHITE HOUSE,

December 12, 2002.

B. Executive Order 13559

Executive Order 13559 of November 17, 2010

Fundamental Principles and Policymaking Criteria for Partnerships With Faith-Based and Other Neighborhood Organizations

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to guide Federal agencies in formulating and developing policies with implications for faith-based and other neighborhood organizations, to promote compliance with constitutional and other applicable legal principles, and to strengthen the capacity of faith-based and other neighborhood organizations to deliver services effectively to those in need, it is hereby ordered:

Section 1. *Amendments to Executive Order 13279.* Executive Order 13279 of December 12, 2002 (Equal Protection of the Laws for Faith-Based and Community Organizations), as amended, is hereby further amended:

(a) in section 1, by striking subsection (e), and inserting in lieu thereof the following:

“(e) ‘Specified agency heads’ means:

- (i) the Attorney General;
- (ii) the Secretary of Agriculture;
- (iii) the Secretary of Commerce;
- (iv) the Secretary of Labor;
- (v) the Secretary of Health and Human Services;
- (vi) the Secretary of Housing and Urban Development;
- (vii) the Secretary of Education;
- (viii) the Secretary of Veterans Affairs;
- (ix) the Secretary of Homeland Security;
- (x) the Administrator of the Environmental Protection Agency;
- (xi) the Administrator of the Small Business Administration;
- (xii) the Administrator of the United States Agency for International Development; and

(xiii) the Chief Executive Officer of the Corporation for National and Community Service.’’;

(b) by striking section 2, and inserting in lieu thereof the following: “**Sec. 2. Fundamental Principles.** In formulating and implementing policies that have implications for faith-based and other neighborhood organizations, agencies that administer social service programs or that support (including through prime awards or sub-awards) social service programs with Federal financial assistance shall, to the extent permitted by law, be guided by the following fundamental principles:

(a) Federal financial assistance for social service programs should be distributed in the most effective and efficient manner possible.

(b) The Nation’s social service capacity will benefit if all eligible organizations, including faith-based and other neighborhood organizations, are able to compete on an equal footing for Federal financial assistance used to support social service programs.

(c) No organization should be discriminated against on the basis of religion or religious belief in the administration or distribution of Federal financial assistance under social service programs.

(d) All organizations that receive Federal financial assistance under social service programs should be prohibited from discriminating against beneficiaries or prospective beneficiaries of the social service programs on the basis of religion or religious belief. Accordingly, organizations, in providing services supported in whole or in part with Federal financial assistance, and in their outreach activities related to such services, should not be allowed to discriminate against current or prospective program beneficiaries on the basis of religion, a religious belief, a refusal to hold a religious belief, or a refusal to attend or participate in a religious practice.

(e) The Federal Government must implement Federal programs in accordance with the Establishment Clause and the Free Exercise Clause of the First Amendment to the United States Constitution, as well as other applicable law, and must monitor and enforce standards regarding the relationship between religion and government in ways that avoid excessive entanglement between religious bodies and governmental entities.

(f) Organizations that engage in explicitly religious activities (including activities that involve overt religious content such as worship, religious instruction, or proselytization) must perform such activities and offer such services outside of programs that are supported with direct Federal financial assistance (including through prime awards or sub-awards), separately in time or location from any such programs or services supported with direct Federal financial assistance, and

participation in any such explicitly religious activities must be voluntary for the beneficiaries of the social service program supported with such Federal financial assistance.

(g) Faith-based organizations should be eligible to compete for Federal financial assistance used to support social service programs and to participate fully in the social service programs supported with Federal financial assistance without impairing their independence, autonomy, expression outside the programs in question, or religious character. Accordingly, a faith-based organization that applies for, or participates in, a social service program supported with Federal financial assistance may retain its independence and may continue to carry out its mission, including the definition, development, practice, and expression of its religious beliefs, provided that it does not use direct Federal financial assistance that it receives (including through a prime award or sub-award) to support or engage in any explicitly religious activities (including activities that involve overt religious content such as worship, religious instruction, or proselytization), or in any other manner prohibited by law. Among other things, faith-based organizations that receive Federal financial assistance may use their facilities to provide social services supported with Federal financial assistance, without removing or altering religious art, icons, scriptures, or other symbols from these facilities. In addition, a faith-based organization that applies for, or participates in, a social service program supported with Federal financial assistance may retain religious terms in its name, select its board members on a religious basis, and include religious references in its organization's mission statements and other chartering or governing documents.

(h) Each agency responsible for administering or awarding Federal financial assistance for social service programs shall offer protections for beneficiaries of such programs pursuant to the following principles:

(i) *Referral to an Alternative Provider.* If a beneficiary or prospective beneficiary of a social service program supported by Federal financial assistance objects to the religious character of an organization that provides services under the program, that organization shall, within a reasonable time after the date of the objection, refer the beneficiary to an alternative provider.

(ii) *Agency Responsibilities.* Each agency responsible for administering a social service program or supporting a social service program with Federal financial assistance shall establish policies and procedures designed to ensure that (1) appropriate and timely referrals are made to an alternative provider; (2) all referrals are made in a manner consistent with all applicable privacy laws and regulations; (3) the organization subject to subsection (h)(i) notifies the agency of any referral; (4) such organization has established a process for determining

whether the beneficiary has contacted the alternative provider; and (5) each beneficiary of a social service program receives written notice of the protections set forth in this subsection prior to enrolling in or receiving services from such program.

(i) To promote transparency and accountability, agencies that provide Federal financial assistance for social service programs shall post online, in an easily accessible manner, regulations, guidance documents, and policies that reflect or elaborate upon the fundamental principles described in this section. Agencies shall also post online a list of entities that receive Federal financial assistance for provision of social service programs, consistent with law and pursuant to guidance set forth in paragraph (c) of section 3 of this order.

(j) Decisions about awards of Federal financial assistance must be free from political interference or even the appearance of such interference and must be made on the basis of merit, not on the basis of the religious affiliation of a recipient organization or lack thereof.”;

(c) by striking section 3, and inserting in lieu thereof the following:

“**Sec. 3. *Ensuring Uniform Implementation Across the Federal Government.***

In order to promote uniformity in agencies’ policies that have implications for faith-based and other neighborhood organizations and in related guidance, and to ensure that those policies and guidance are consistent with the fundamental principles set forth in section 2 of this order, there is established an Interagency Working Group on Faith-Based and Other Neighborhood Partnerships (Working Group).

(a) *Mission and Function of the Working Group.* The Working Group shall meet periodically to review and evaluate existing agency regulations, guidance documents, and policies that have implications for faith-based and other neighborhood organizations. Where appropriate, specified agency heads shall, to the extent permitted by law, amend all such existing policies of their respective agencies to ensure that they are consistent with the fundamental principles set forth in section 2 of this order.

(b) *Uniform Agency Implementation.* Within 120 days of the date of this order, the Working Group shall submit a report to the President on amendments, changes, or additions that are necessary to ensure that regulations and guidance documents associated with the distribution of Federal financial assistance for social service programs are consistent with the fundamental principles set forth in section 2 of this order. The Working Group’s report should include, but not be limited to, a model set of regulations and guidance documents for agencies to adopt in the following areas:

(i) prohibited uses of direct Federal financial assistance and separation requirements; (ii) protections for religious identity; (iii) the distinction between “direct” and “indirect” Federal financial assistance; (iv) protections for beneficiaries of social service programs; (v) transparency requirements, consistent with and in furtherance of existing open government initiatives; (vi) obligations of nongovernmental and governmental intermediaries; (vii) instructions for peer reviewers and those who recruit peer reviewers; and (viii) training on these matters for government employees and for Federal, State, and local governmental and nongovernmental organizations that receive Federal financial assistance under social service programs. In developing this report and in reviewing agency regulations and guidance for consistency with section 2 of this order, the Working Group shall consult the March 2010 report and recommendations prepared by the President’s Advisory Council on Faith-Based and Neighborhood Partnerships on the topic of reforming the Office of Faith-Based and Neighborhood Partnerships.

(c) Guidance. The Director of the Office of Management and Budget (OMB), following receipt of a copy of the report of the Working Group, and in coordination with the Department of Justice, shall issue guidance to agencies on the implementation of this order, including in particular subsections 2(h)–(j).

(d) Membership of the Working Group. The Director of the Office of Faith-Based and Neighborhood Partnerships and a senior official from the OMB designated by the Director of the OMB shall serve as the Co-Chairs of the Working Group. The Co-Chairs shall convene regular meetings of the Working Group, determine its agenda, and direct its work. In addition to the Co-Chairs, the Working Group shall consist of a senior official with knowledge of policies that have implications for faith-based and other neighborhood organizations from the following agencies and offices:

- (i) the Department of State;
- (ii) the Department of Justice;
- (iii) the Department of the Interior;
- (iv) the Department of Agriculture;
- (v) the Department of Commerce;
- (vi) the Department of Labor;
- (vii) the Department of Health and Human Services;
- (viii) the Department of Housing and Urban Development;
- (ix) the Department of Education;

- (x) the Department of Veterans Affairs;
- (xi) the Department of Homeland Security;
- (xii) the Environmental Protection Agency;
- (xiii) the Small Business Administration;
- (xiv) the United States Agency for International Development;
- (xv) the Corporation for National and Community Service; and
- (xvi) other agencies and offices as the President, from time to time, may designate.

(e) Administration of the Initiative. The Department of Health and Human Services shall provide funding and administrative support for the Working Group to the extent permitted by law and within existing appropriations.’’; and

(d) by striking in the title, preamble, and section 1(c), ‘‘community’’ and inserting in lieu thereof ‘‘other neighborhood’’.

Sec. 2. General Provisions.

(a) This order amends the requirements contained in Executive Order 13279. This order supplements, but does not supersede, the requirements contained in Executive Orders 13198 and 13199 of January 29, 2001, and Executive Order 13498 of February 5, 2009.

(b) Nothing in this order shall be construed to impair or otherwise affect:

(i) authority granted by law to an executive department, agency, or the head thereof; or

(ii) functions of the Director of the OMB relating to budgetary, administrative, or legislative proposals.

(c) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(d) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

[signed] Barack Obama

THE WHITE HOUSE,

November 17, 2010.

C. Title 7, C.F.R. part 16

EQUAL OPPORTUNITY FOR RELIGIOUS ORGANIZATIONS

Contents

- §16.1 Purpose and applicability.
- §16.2 Definitions.
- §16.3 Rights of religious organizations.
- §16.4 Responsibilities of participating organizations.
- §16.5 Effect on State and local funds.
- §16.6 Compliance.

Appendix A to Part 16—Written Notice of Beneficiary Rights

Authority: 5 U.S.C. 301; E.O. 13279, 67 FR 77141; E.O. 13280, 67 FR 77145; E.O. 13559, 75 FR 71319.

Source: 69 FR 41382, July 9, 2004, unless otherwise noted.

§16.1 Purpose and applicability.

- (a) The purpose of this part is to set forth USDA policy regarding equal opportunity for religious organizations to participate in USDA assistance programs for which other private organizations are eligible.
- (b) Except as otherwise specifically provided in this part, the policy outlined in this part applies to all recipients and sub-recipients of USDA assistance to which 2 CFR part 400 applies, and to recipients and sub-recipients of Commodity Credit Corporation assistance that is administered by agencies of USDA.

[69 FR 41382, July 9, 2004, as amended at 81 FR 19413, Apr. 4, 2016]

§16.2 Definitions.

As used in this part:

- (a) USDA direct assistance is Federal financial assistance provided by USDA and means that the Federal Government or an intermediary (under this part) selects the provider and either purchases services from that provider (e.g., via a contract) or awards funds to that provider to carry out a service (e.g., via grant or cooperative agreement). In general, USDA assistance shall be treated as direct, unless it meets the definition of “USDA indirect assistance.”

(b)(1) USDA indirect assistance is Federal financial assistance provided indirectly by USDA and means that the choice of the service provider is placed in the hands of the beneficiary, and the cost of that service is paid through a voucher, certificate, or other similar means of government-funded payment. Federal financial assistance provided to an organization is considered “indirect” within the meaning of the Establishment Clause of the First Amendment to the U.S. Constitution when

(i) The government program through which the beneficiary receives the voucher, certificate, or other similar means of government-funded payment is neutral toward religion;

(ii) The organization receives the assistance as a result of a decision of the beneficiary, not a decision of the government; and

(iii) The beneficiary has at least one adequate secular option for the use of the voucher, certificate, or other similar means of government-funded payment.

(2) The recipients of sub-grants that receive Federal financial assistance through State-administered programs (e.g., flow-through programs such as the National School Lunch Program authorized under the Richard B. Russell National School Lunch Act, 42 U.S.C. 1751 et seq.) are not considered recipients of “USDA indirect assistance,” as those terms are used in Executive Order 13559. These recipients of sub-awards are considered recipients of USDA direct assistance.

(c) Intermediary means an entity, including a non-governmental organization, acting under a contract, grant, or other agreement with the Federal Government or with a State or local government that accepts USDA direct assistance and distributes that assistance to other organizations that, in turn, provide government-funded services. If an intermediary, acting under a contract, grant, or other agreement with the Federal Government or with a State or local government that is administering a program supported by Federal financial assistance, is given the authority under the contract, grant, or agreement to select non-governmental organizations to provide services funded by the Federal Government, the intermediary must ensure compliance with the provisions of Executive Order 13559 and any implementing rules or guidance by the recipient of a contract, grant, or agreement. If the intermediary is a non-governmental organization, it retains all other rights of a non-governmental organization under the program's statutory and regulatory provisions.

[81 FR 19413, Apr. 4, 2016]

§16.3 Rights of religious organizations.

(a) A religious organization is eligible, on the same basis as any other eligible private organization, to access and participate in USDA assistance programs. Neither the Federal Government nor a State or local government receiving USDA assistance shall, in the selection of service providers, discriminate for or against a religious organization on the basis of the organization's religious character or affiliation. Additionally, decisions about awards of USDA direct assistance or USDA indirect assistance must be free from political interference or even the

appearance of such interference and must be made on the basis of merit, not on the basis of the religious affiliation of a recipient organization or lack thereof.

(b) A religious organization that participates in USDA assistance programs will retain its independence and may continue to carry out its mission, including the definition, practice, and expression of its religious beliefs, provided that it does not use USDA direct assistance to support any explicitly religious activities, including activities that involve overt religious content such as worship, religious instruction, or proselytization. Among other things, a religious organization may:

(1) Use space in its facilities to provide services and programs without removing religious art, icons, scriptures, or other religious symbols,

(2) Retain religious terms in its organization's name,

(3) Select its board members and otherwise govern itself on a religious basis, and

(4) Include religious references in its organizations' mission statements and other governing documents.

(c) In addition, a religious organization's exemption from the Federal prohibition on employment discrimination on the basis of religion, set forth in section 702(a) of the Civil Rights Act of 1964, 42 U.S.C. 2000e-1, is not forfeited when an organization receives USDA assistance.

[69 FR 41382, July 9, 2004. Redesignated and amended at 81 FR 19413, Apr. 4, 2016]

§16.4 Responsibilities of participating organizations.

(a) Any organization that participates in a program funded by USDA financial assistance shall not, in providing services, discriminate against a current or prospective program beneficiary on the basis of religion, religious belief, a refusal to hold a religious belief, or a refusal to attend or participate in a religious practice. However, an organization that participates in a program funded by indirect financial assistance need not modify its program activities to accommodate a beneficiary who chooses to expend the indirect aid on the organization's program.

(b) Organizations that receive USDA direct assistance under any USDA program may not engage in explicitly religious activities, including activities that involve overt religious content such as worship, religious instruction, or proselytization, as part of the programs or services supported with USDA direct assistance. If an organization conducts such activities, the activities must be offered separately, in time or location, from the programs or services supported with USDA direct assistance, and participation must be voluntary for beneficiaries of the programs or services supported with such USDA direct assistance.

(c) Nothing in paragraphs (a) or (b) shall be construed to prevent religious organizations that receive USDA assistance under the Richard B. Russell National School Lunch Act, 42 U.S.C.

1751 et seq., the Child Nutrition Act of 1966, 42 U.S.C. 1771 et seq., or USDA international school feeding programs from considering religion in their admissions practices or from imposing religious attendance or curricular requirements at their schools.

(d)(1) USDA direct assistance may be used for the acquisition, construction, or rehabilitation of structures only to the extent that those structures are used for conducting USDA programs and activities and only to the extent authorized by the applicable program statutes and regulations. USDA direct assistance may not be used for the acquisition, construction, or rehabilitation of structures to the extent that those structures are used by the USDA funding recipients for explicitly religious activities. Where a structure is used for both eligible and explicitly religious activities, USDA direct assistance may not exceed the cost of those portions of the acquisition, construction, or rehabilitation that are attributable to eligible activities in accordance with the cost accounting requirements applicable to USDA funds. Sanctuaries, chapels, or other rooms that an organization receiving direct assistance from USDA uses as its principal place of worship, however, are ineligible for USDA-funded improvements. Disposition of real property after the term of the grant or any change in use of the property during the term of the grant is subject to government-wide regulations governing real property disposition (see 2 CFR part 400).

(2) Any use of USDA direct assistance funds for equipment, supplies, labor, indirect costs, and the like shall be prorated between the USDA program or activity and any use for other purposes by the religious organization in accordance with applicable laws, regulations, and guidance.

(3) Nothing in this section shall be construed to prevent the residents of housing who are receiving USDA direct assistance funds from engaging in religious exercise within such housing.

(e) USDA direct assistance under any USDA program may not be used for explicitly religious activities, speech, and materials generated or controlled by the administrators, instructors, or officials of the organization receiving USDA direct assistance.

(f) Beneficiary protections: Written notice. (1) Faith-based organizations that receive USDA direct assistance under any domestic USDA program must give written notice in a manner prescribed by USDA to all beneficiaries and prospective beneficiaries of their right to be referred to an alternate provider when available. The written notice must be given in a manner prescribed by USDA, and state that:

(i) The organization may not discriminate against beneficiaries on the basis of religion or religious belief, a refusal to hold a religious belief, or a refusal to attend or participate in a religious practice;

(ii) The organization may not require beneficiaries to attend or participate in any explicitly religious activities that are offered by the organization, and any participation by beneficiaries in such activities must be purely voluntary;

(iii) The organization must separate in time or location any privately funded explicitly religious activities from activities supported by direct Federal financial assistance;

(iv) If a beneficiary objects to the religious character of the organization, the organization will undertake reasonable efforts to identify and refer the beneficiary to an alternate provider to which the prospective beneficiary has no objection; the organization may not be able to guarantee, however, that in every instance, an alternate provider will be available; and

(v) Beneficiaries may report violations of these protections (including denials of services or benefits) by an organization to, USDA (or, the intermediary, if applicable).

(2) This written notice must be given to beneficiaries prior to the time they enroll in the program or receive services from such programs. When the nature of the service provided or exigent circumstances make it impracticable to provide such written notice in advance of the actual service, service providers must advise beneficiaries of their protections at the earliest available opportunity.

(g) Beneficiary protections: Referral requirements. If a beneficiary or prospective beneficiary of a domestic social services program supported by USDA objects to the religious character of an organization that provides services under the program, that organization must promptly undertake reasonable efforts to identify and refer the beneficiary to an alternate provider, within reasonable geographic proximity to the provider, if available, to which the prospective beneficiary has no objection. In making the referral, the organization shall comply with all applicable privacy laws and regulations.

(1) A referral may be made to another faith-based organization, if the beneficiary has no objection to that provider. But if the beneficiary requests a secular provider, and a secular provider is available, then a referral must be made to that provider.

(2) Except for services provided by telephone, Internet, or similar means, the referral must be to an alternate provider that is in reasonable geographic proximity to the organization making the referral and that offers services that are similar in substance and quality to those offered by the organization, if one is available. The alternate provider also should have the capacity to accept additional clients, if one with capacity to accept additional clients is available.

(3) If the organization determines that it is unable to identify an alternate provider, the organization shall promptly notify the awarding entity, and the awarding entity shall determine whether there is any other suitable alternate provider to which the beneficiary may be referred. An intermediary that receives a request for assistance in identifying an alternate provider may request assistance from USDA or a State or local government receiving USDA direct assistance.

(4) In some cases, USDA may require that the awarding entity provide the organization with information regarding alternate providers. Such information regarding alternative providers should include providers (including secular organizations) within a reasonable geographic proximity that offer services that are similar in substance and quality and that would reasonably be expected to have the capacity to accept additional clients, provided any such organizations exist. An organization which relies on such information provided by the awarding entity shall be

considered to have undertaken reasonable efforts to identify an alternate provider under this subpart.

(h) The requirements in paragraphs (b) through (g) of this section do not apply where USDA funds or benefits are provided to religious organizations as a result of a genuine and independent private choice of a beneficiary or through other indirect funding mechanisms, provided the religious organizations otherwise satisfy the requirements of the program.

[69 FR 41382, July 9, 2004. Redesignated and amended at 81 FR 19413, Apr. 4, 2016]

§16.5 Effect on State and local funds.

If a State or local government voluntarily contributes its own funds to supplement activities carried out under programs governed by this part, the State or local government has the option to separate out the USDA direct assistance funds or comingle them. If the funds are comingled, the provisions of this part shall apply to all of the comingled funds in the same manner, and to the same extent, as the provisions apply to the USDA direct assistance.

[81 FR 19414, Apr. 4, 2016]

§16.6 Compliance.

USDA agencies will monitor compliance with this part in the course of regular oversight of USDA programs.

[69 FR 41382, July 9, 2004. Redesignated at 81 FR 19414, Apr. 4, 2016]

D. Model Notice of Beneficiary Rights and Beneficiary Referral Request

The model Notice of Beneficiary Rights and model Beneficiary Referral Request, as set forth in an appendix to the regulations, is provided here in a format that can be readily adapted and reproduced by covered faith-based organizations. The model Notice is provided in two versions. The first version is for recipients who receive their federal financial assistance via an intermediary, such as a state administering agency, whose information should be included in the form. The second version is for recipients who do not have an intermediary.

Both versions are provided in English and several additional commonly encountered languages. Electronic copies of these documents can be downloaded from :

Notice of Beneficiary Rights

Name of Organization: _____

Name of Program _____

Contact Information for Program Staff (name, phone number, and e-mail address, if appropriate) _____

- We must separate in time or location any privately funded explicitly religious activities from activities supported with direct Federal financial assistance under this program;
- If you object to the religious character of our organization, we must make reasonable efforts to identify and refer you to an alternative provider to which you have no objection; however, we cannot guarantee that in every instance, an alternative provider will be available; and
- You may report violations of these protections, including any denials of services or benefits, by contacting or filing a written complaint to

Because this program is supported in whole or in part by direct financial assistance from the Federal Government, we are required to let you know that—

- We may not discriminate against you on the basis of religion or religious belief, your refusal to hold a religious belief, or your refusal to attend or participate in a religious practice;
- We may not require you to attend or participate in any explicitly religious activities that are offered by us, and any participation by you in these activities must be purely voluntary;

E-mail: Fax: U.S. Mail:

We must give you this written notice before you enroll in our program or receive services from the program

Beneficiary Referral Request

If you object to receiving services from us based on the religious character of our organization, please complete this form and return it to the program contact identified above. If you object, we will make reasonable efforts to refer you to another service provider. With your consent, we will follow up with you or the organization to which you were referred to determine whether you contacted that organization.

Please check if applicable:

I want to be referred to another service provider.

If you checked above that you wish to be referred to another service provider, please check one of the following:

Please follow up with me. (phone/address/email)

Name & Best way to reach me: _____

Please follow up with the service provider to which I was referred.

Please do not follow up

FOR STAFF USE ONLY (CHECK ONE) Date of Objection: ___/___/___ Follow-up Date ___/___/___

Individual was referred to (name of alternate provider and contact information): _____

Individual left without a referral

No alternate service provider is available—summarize below what efforts you made to identify an alternate provider (including reaching out to USDA or the intermediary, if applicable)

Follow Up: Individual contacted alternate provider Individual did not contact alternate provider

Staff name & initials _____

Aviso Sobre los Derechos del Beneficiario

Nombre de la Organización:

Nombre del Programa:

Información de contacto del personal del programa (nombre, número telefónico y dirección de correo electrónico, si es apropiado)

Debido a que este programa está apoyado en su totalidad o en parte por la asistencia financiera directa del Gobierno Federal, estamos obligados a hacerle saber que —

- No podemos discriminarlo en base a su religión o su creencias religiosas, su negativa a sostener creencias religiosas, o su negativa a asistir o participar en cualquier práctica religiosa;
- No podemos requerir que asista o participe en cualquier actividad explícitamente religiosa que son ofrecidos por nosotros, y cualquier participación suya en estas actividades deben ser puramente voluntaria;
- Debemos separar en tiempo o lugar cualquier actividad explícitamente religiosa con fondos

privados de actividades apoyadas con directa asistencia financiera Federal en este programa;

- Si usted se opone al carácter religioso de nuestra organización, debemos hacer esfuerzos razonables para identificar y referirlo a un proveedor alternativo al que usted no tenga ninguna objeción; sin embargo, no podemos garantizar que en cada caso, un proveedor alternativo estará disponible; y

- Usted debe informar las violaciones de estas protecciones, incluyendo cualquier denegación de servicios o beneficios, o presentar una queja por escrito a

Correo electrónico:
Fax:
Correo:

Nosotros debemos darle esta notificación por escrito antes de que se inscriba en nuestro programa o reciba servicios del programa

Solicitud de derivación de beneficiarios

Si se niega a recibir nuestros servicios basados en el carácter religioso de nuestra organización, por favor de completar este formulario y retornarlo al contacto del programa identificado anteriormente. Si usted se niega, haremos los esfuerzos razonables para referirlo a otro proveedor de servicios. Con su consentimiento, vamos a darle seguimiento con usted o la organización a la que usted fue referido para determinar si usted se contactó con esa organización,

Por favor de marcar donde corresponde:

Quiero ser referido a otro proveedor de servicios.

Si usted marcó arriba que desea ser referido a otro proveedor de servicios, por favor marque uno de los siguientes:

Por favor haga seguimiento conmigo. (Teléfono, dirección de correo electrónico)

Nombre & Mejor manera de comunicarse conmigo: _____

Por favor haga seguimiento con el proveedor de servicios al que me refirieron.

No favor no hacer seguimiento.

SOLO PARA USO DEL PERSONAL (MARQUE UNO)

Individuo fue referido a (nombre del proveedor alternativo e información del contacto): _____

Individuo se quedó sin una referencia

Ningún proveedor de servicio alternativo está disponible — resumir abajo qué esfuerzos hizo para identificar un proveedor alternativo (incluya contactando a la USDA o el intermediario, si es aplicable)

Seguimiento: Individuo se contactó con proveedor alternativo Individuo se contactó con proveedor alternativo

Nombre del Personal & iniciales _____

Fecha de la objeción: ___/___/___

Fecha del Seguimiento ___/___/___

This page intentionally left blank.