

**SUBJECT:** Faith-Based and Community Organizations

**REFERENCE:** Workforce Investment Act of 1998; Executive Order 13279 - Equal Protection of the Laws for Faith-Based and Community Organizations; Federal Register, Vol. 67, No. 241, Monday, December 16, 2002, P. 77141-77144; Executive Order 13198; TEGL 17-01; TEGL 1-05; TEGL 29-07; Federal Register, Vol. 69, No. 132, Monday, July 12, 2004, P. 41882-41894; 20 CFR Parts 2 and 37; and 20 CFR Parts 667 and 670.

**BACKGROUND:** On January 29, 2001, Executive Order 13198 created the Office for Faith-Based and Community Initiatives in the White House and centers in the Departments of Labor, Health and Human Services, Housing and Urban Development, Education, and Justice. This was done to make government a partner with local faith-based and community-based organizations in addressing social issues. An audit by DOL revealed that both faith-based and community-based grassroots organizations are often under-utilized as partners in the workforce investment system. On December 12, 2002, the President signed Executive Order 13279 which required Federal agencies to review and revise their policies in order to ensure that faith-based and community organizations are able to apply and receive equal treatment with other eligible organizations for Federal financial assistance. The July 12, 2004 Federal Register amended the Department of Labor's general regulations as well as the specific regulations governing Job Corps and implementing the Workforce Investment Act.

**POLICY:** All programs administered or supported by Federal, State, or local governments using Federal financial assistance that provide 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 shall ensure their policies are consistent with the fundamental principles listed below.

### Fundamental Principles

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:

- Federal financial assistance for social service programs should be distributed in the most effective and efficient manner possible.
- 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.
- 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. "Religious organizations must be eligible, on the same basis as any other organization, to seek Department of Labor (DOL) support or participate in DOL programs for which they are otherwise eligible." [29 CFR 2.32(a)] This means that organizations must not be discriminated against simply because some of their employees are engaged in religious activities.
- 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. "...State and local governments administering DOL support must not, when providing social services, discriminate for or against a current or prospective program beneficiary on the basis of religion or religious belief." [29 CFR 2.33(a)]
- 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.
- 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 from Federal, State, and local government 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, such a religious organization must be permitted to: (1) Use its facilities to provide DOL-supported social services without removing or altering religious art, icons, scriptures, or other religious symbols from those facilities; and (2) Retain its authority over its internal governance, including retaining religious terms in its name, selecting its board members on a religious basis, and including religious references in its mission statements and other governing documents.” [29 CFR 2.32(b)]

### **Other Considerations**

- **Assurances**

“A grant document, contract or other agreement, covenant, memorandum of understanding, policy, or regulation that is used by DOL, a State or local government administering DOL support, or a DOL social service intermediary provider must not require only religious organizations to provide assurances that they will not use direct DOL support for inherently religious activities. Any such requirements must apply equally to both religious and other organizations.” [29 CFR 2.32(c)]

- **Employing or Training Participants in Religious Activities**

“Assistance may be used for such employment or training only when the assistance is provided indirectly within the meaning of the Establishment Clause of the U.S. Constitution, and not when the assistance is provided directly. Assistance provided through an Individual Training Account is generally considered indirect.” [29 CFR 37.6(f)(1)] “Religious or other non-governmental organizations will be considered to have received support indirectly, for example, if as a result of a program beneficiary’s genuine and independent choice the beneficiary redeems a voucher, coupon, or certificate that allows the beneficiary to choose the service provider ... among providers or program options.” [29 CFR 2.33(c)] To ensure genuine and independent private choice, each participant must be offered at least one option to which the participant has no religious objection.

### **Connecting with the Workforce Investment System**

To help create effective strategies and utilize the leadership and services of faith-based and community-based organizations, Local Workforce Investment Boards and Workforce Development agencies are encouraged to:

- Appoint members to Boards who are specifically familiar with local grassroots faith-based organizations to work alongside representatives

- who are familiar with a broad range of other community groups and service providers;
- Create campaigns that will educate appropriate local faith-based and community-based organizations about the workforce investment system, including available grants and opportunities for participation and partnership with Career Centers;
  - Ensure that information on websites about applying for grants or becoming service providers is easy to find and understand for those non-profit organizations seeking to partner with the workforce investment system;
  - Ensure that beneficiaries and prospective beneficiaries of their programs understand their rights by having literature available for the beneficiaries explaining their rights; and
  - Keep informed about the latest opportunities and outreach materials by accessing the U.S. Department of Labor's Center for Faith-Based and Community Initiatives at their website at <http://www.dol.gov/cfbcj>.