



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D. C. 20503

THE DIRECTOR

August 2, 2013

M-13-19

MEMORANDUM FOR THE HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES

FROM: Sylvia M. Burwell 
Director

SUBJECT: Implementation of Executive Order 13559, "Fundamental Principles and Policymaking Criteria for Partnerships With Faith-based and Other Neighborhood Organizations"

On November 17, 2010, President Obama signed Executive Order (E.O.) 13559, "Fundamental Principles and Policymaking Criteria for Partnerships With Faith-Based and Other Neighborhood Organizations," reflecting several recommendations of the President's Advisory Council on Faith-Based and Neighborhood Partnerships, a broad group of faith and community leaders. The E.O. amended E.O. 13279, signed by President Bush in 2002, to clarify the fundamental principles that guide agencies' work with faith-based and neighborhood organizations.

The E.O. also established the Interagency Working Group on Faith-Based and Other Neighborhood Partnerships (Working Group) to review and evaluate existing regulations, guidance documents, and policies, and to develop a model set of regulations and guidance for agencies to adopt.¹ Pursuant to the E.O., the Working Group set forth model regulations and guidance in its "Report to the President: Recommendations of the Interagency Working Group on Faith-based and Other Neighborhood Partnerships" (Report). The Report is available at <http://www.whitehouse.gov/sites/default/files/uploads/finalfaithbasedworkinggroupreport.pdf>.

¹ The Working Group is co-chaired by the Executive Director of the Office of Faith-Based and Neighborhood Partnerships and the OMB Controller and includes senior officials from the following additional agencies and offices: Department of State, Department of Justice, Department of the Interior, Department of Agriculture, Department of Commerce, Department of Labor, Department of Health and Human Services, Department of Housing and Urban Development, Department of Education, Department of Veterans Affairs, Department of Homeland Security, Environmental Protection Agency, Small Business Administration, United States Agency for International Development, and Corporation for National and Community Service. See § 3(d) of E.O. 13279, as amended by E.O. 13559 (2010).

The Report includes recommendations for agencies to adopt rules, policies, and guidance in each of the following areas, as provided in the E.O.:²

1. prohibited uses of direct Federal financial assistance and separation requirements;
2. protections for religious identity;
3. the distinction between “direct” and “indirect” Federal financial assistance;³
4. protections for beneficiaries of social service programs;
5. transparency requirements, consistent with and in furtherance of existing open government initiatives;
6. obligations of nongovernmental and governmental intermediaries;
7. instructions for peer reviewers and those who recruit peer reviewers;
8. methods for monitoring the uses of Federal financial assistance that avoid excessive entanglement between religious bodies and governmental entities and for enforcement of relevant rules and policies; and
9. training on these matters for Government employees, grant reviewers, and Federal, State, and local governmental bodies as well as for nongovernmental organizations that receive Federal financial assistance under social service programs.

The E.O. requires the Office of Management and Budget (OMB), upon receipt of the Report and in coordination with the Department of Justice, to issue guidance to agencies on the implementation of the E.O.⁴ This Memorandum therefore instructs specified agency heads⁵ to adopt regulations and guidance that will fulfill the requirements of the E.O., including regulations and guidance that are consistent with the model regulations and guidance in the attached Report, to the extent permitted by law. Similarly, pursuant to section 3(a) of the E.O., specified agency heads, where appropriate and to the extent permitted by law, must amend all existing agency regulations, guidance documents, and policies of their respective agencies to ensure that they are consistent with the fundamental principles set forth in the E.O.⁶

² See §§ 2 and 3(b) of E.O. 13279, as amended by E.O. 13559 (2010).

³ The terms “direct” and “indirect” in this case do not necessarily refer to or have the same meaning as the “direct” and “indirect” costs as defined in the OMB Cost Circulars (OMB Circular A-21, “Cost Principles for Educational Institutions”; OMB Circular A-87, “Cost Principles for State, Local, and Indian Tribal Governments”; and OMB Circular A-122, “Cost Principles for Non-Profit Organizations”).

⁴ § 3(c) of E.O. 13279, as amended by E.O. 13559 (2010).

⁵ “Specified agency heads” are defined in § 1(e) of E.O. 13279, as amended by E.O. 13559 (2010), as the Attorney General; the Secretary of Agriculture; the Secretary of Commerce; the Secretary of Labor; the Secretary of Health and Human Services; the Secretary of Housing and Urban Development; the Secretary of Education; the Secretary of Veterans Affairs; the Secretary of Homeland Security; the Administrator of the Environmental Protection Agency; the Administrator of the Small Business Administration; the Administrator of the United States Agency for International Development; and the Chief Executive Officer of the Corporation for National and Community Service.

⁶ § 3(a) of E.O. 13279, as amended by E.O. 13559 (2010).

Specified agency heads will need to conduct a review of existing rules, including those that were adopted to implement E.O. 13279.⁷ For example, these rules must be amended where appropriate to clarify prohibited uses of direct Federal financial assistance and to set forth matters such as additional protections for prospective and current beneficiaries, responsibilities of intermediary organizations, and the definitions of “direct” and “indirect” assistance. Other kinds of changes mandated by E.O. 13559 are revisions of current policies and practices, or the adoption of new ones, rather than amendments of existing rules. Examples of these changes include: providing additional guidance regarding the necessary separation between programs funded by direct Federal financial assistance and any privately funded, explicitly religious activities; posting policies for and lists of entities receiving Federal financial assistance; and developing and implementing plans for monitoring and enforcement of relevant rules and policies and for training internal personnel and recipients of Federal financial assistance regarding these rules.

To help meet these goals, the Office of Faith-Based and Neighborhood Partnerships (OFBNP) and OMB will reconvene the Working Group. As E.O. 13559 states, ensuring uniform implementation of these fundamental principles and policymaking criteria is an important goal of this process, and the continued operation of the Working Group will play a key role in achieving it.

Accordingly, OFBNP and OMB will reconvene the Working Group to develop a plan for agency implementation of the E.O. Within 120 days after the development of that plan, specified agency heads shall provide memoranda to OFBNP and OMB setting forth agency-specific plans for amending, to the extent permitted by law, all existing policies, guidance documents, and regulations of their respective agencies that have implications for faith-based and other neighborhood organizations and that require amending to ensure that they are consistent with the fundamental principles set forth in the E.O. OFBNP and OMB will then continue working with members of the Working Group on an ongoing basis to ensure that the E.O. is fully implemented in an expeditious manner and in a way that achieves consistency across the Government to the greatest extent possible. Agency staff should direct any questions regarding implementation of the E.O. to their respective agencies’ participants in the Working Group. If agencies also need to contact OMB, consistent with normal agency practice, questions regarding regulations should be directed to the agency’s appropriate desk officer at the Office of Information and Regulatory Affairs, and questions regarding grants should be directed to the Office of Federal Financial Management, Management Controls and Assistance Branch, at 202-395-3993.

⁷ See, e.g., 7 CFR 16, 24 CFR 5.109, 24 CFR 92, 28 CFR 38.1-38.2, 38 CFR 61.64, 45 CFR 87.1-87.2, 69 Fed. Reg. 31708 (2004), 69 Fed. Reg. 41882 (2004), and 69 Fed. Reg. 61716 (2004).