

Report to the President

Recommendations of the Interagency Working Group on Faith-Based and Other Neighborhood Partnerships

Submitted pursuant to Executive Order 13559,
“Fundamental Principles and Policymaking Criteria for Partnerships With Faith-Based and Other Neighborhood
Organizations”

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Faith-Based and Other Neighborhood Partnerships

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Introduction

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,” embodying a number of the recommendations of the President’s Advisory Council on Faith-based and Neighborhood Partnerships, a broad group of faith and community leaders. This Executive Order required agencies to develop regulations and guidance that will improve the way the Federal government engages faith-based and other nonprofit organizations.

Background

On December 12, 2002, President Bush signed E.O. 13279, Equal Protection of the Laws for Faith-Based and Community Organizations. E.O. 13279 set forth the principles and policymaking criteria 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, and to expand opportunities for, and strengthen the capacity of, faith-based and other community organizations to meet social needs in America's communities. In addition, E.O. 13279 asked for specified agency heads to review and evaluate existing policies relating to Federal financial assistance for social services programs and, where appropriate, to implement new policies that were consistent with and necessary to further the fundamental principles and policymaking criteria that have implications for faith-based and community organizations.

Shortly after taking office, President Obama signed E.O. 13498 (Amendments to E.O. 13199 and Establishment of the President’s Advisory Council for Faith-Based and Neighborhood Partnerships). E.O. 13498 changed the name of the White House Office of Faith-Based and Community Initiatives to the White House Office of Faith-Based and Neighborhood Partnerships (Office) and established the President’s Advisory Council for Faith-Based and Neighborhood Partnerships (Advisory Council). The Advisory Council was created to bring together experts to, among other things, make recommendations to the President for changes in policies, programs, and practices that affect the delivery of services by faith-based and other neighborhood organizations. E.O. 13498 did not make additional changes to the mission and practice of the Office in part to allow time for the Advisory Council to make recommendations.

The Advisory Council issued its recommendations in a report entitled “A New Era of Partnerships: Report of Recommendations to the President” (Advisory Council Report) in March 2010. The report included recommendations to amend E.O. 13279 in order to clarify the legal foundation of partnerships and offered a new set of fundamental principles to guide agency decision-making in administering Federal aid and support to faith-based and neighborhood organizations.

President Obama subsequently signed E.O. 13559. This E.O. incorporated the Advisory Council’s recommendations by amending E.O. 13279 to:

- require agencies that administer or award Federal financial assistance for social service programs to implement protections for the beneficiaries or prospective beneficiaries of such programs by providing referrals to alternative providers if the beneficiary objects to the religious character of the organization providing services, as well as written notice of these protections to beneficiaries before enrolling in or receiving services;
- state that 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, or lack of affiliation, of the recipient organization;

- state that the Federal government has an obligation to monitor and enforce all standards regarding the relationship between religion and government in ways that avoid excessive entanglement between religious bodies and governmental entities;
- clarify the principle that organizations engaging in explicitly religious activity must separate these activities in time or location from programs supported with direct Federal financial assistance, and that participation in any explicit religious activity cannot be subsidized with direct government funds and that participation in such activities must be voluntary for the beneficiaries of the social service program supported with Federal financial assistance;
- emphasize that religious providers are welcome to compete for government social service funding and maintain a religious identity as described in the order;
- require agencies that provide Federal financial assistance for social service programs to post online regulations, guidance documents, and policies that have implications for faith-based and neighborhood organizations and to post online a list of entities receiving such assistance; and
- clarify that church-state standards and other standards apply to subawards as well as prime awards.

Interagency Working Group on Faith-Based and Other Neighborhood Partnerships

In addition, the E.O. created the Interagency Working Group on Faith-Based and Other Neighborhood Partnerships (Working Group) to review and evaluate existing regulations, guidance documents, and policies. As directed by the E.O., the Working Group developed a model set of regulations and guidance for agencies to adopt. This report sets forth these model regulations and guidance.

When applying this guidance to the special circumstances of programs operating in foreign countries, additional considerations may be implicated. Guidance for these programs should be provided, as appropriate, by departments and agencies operating them in consultation with the Department of Justice, rather than by this report, which focuses largely on domestic considerations.

Pursuant to the E.O., the Working Group addressed the following issues with regard to faith-based partnerships:

- (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.

§3(b) of E.O. 13279, as amended by E.O. 13559.

This report makes the following recommendations (to be implemented to the extent not inconsistent with applicable law) in each of these categories:

Prohibited uses of direct Federal financial assistance and preserving religious identity

- Give examples of “explicitly religious activities” that may not be supported with direct Federal funds.¹
- Clarify that the restriction on explicitly religious activities applies to the content of Federally-funded programs, not to spontaneous comments made by individual beneficiaries of social services.

¹ Throughout this report, the terms “Federal funds” and “Federal financial assistance” are used interchangeably. In the context of this report, “Federal funds” should be understood to mean “Federal financial assistance” as that term is used in E.O. 13559.

- Clarify protections for each faith-based organization’s identity.

Direct and Indirect Funding

- More clearly define “direct” and “indirect” funding and give examples of both.
- Adopt preamble language in agency regulations to help identify whether grants are direct or indirect funding.

Role of Intermediary Organizations

- Define the responsibility of intermediary organizations that disburse funds and support to faith-based and other organizations to clarify the requirements by which intermediary organizations are obligated to abide.
- Adopt preamble language for agency regulations that make these points clear.

Protections for Beneficiaries of Federal Social Services

- Clarify how beneficiaries of Federal social services should be given written notice of their right to request an alternative provider if a beneficiary objects to the religious character of the provider.
- Adopt model regulatory language to incorporate this requirement, and provide a questions and answers document and a sample referral form.

Transparency of Funding to Faith-based Organizations

- Define which documents, grants, and awards should be posted online.
- Clarify that awards already posted online through USASpending.gov need not be posted again.

Training and Monitoring of Faith-based Organizations

- Clarify that agencies should develop:
 - plans to monitor compliance with guidelines for faith-based organizations, specifying who will do the monitoring and what measures they will use;
 - training plans to address training of agency personnel and recipient organizations;
 - a process whereby recipient organizations self-report on whether they offer social service programs with explicitly religious activities and if so, how they plan to comply with the separation requirements of the executive order; and
 - plans for enforcement in the event of non-compliance.

Working Group Recommendations

1. Prohibited Uses of Direct Federal Financial Assistance and Preserving Faith-Based Organizations' Religious Identity

1. Prohibited Uses of Direct Federal Financial Assistance and Preserving Faith-Based Organizations' Religious Identity

Pursuant to Section 3(b) of E.O. 13279, as amended, this chapter provides model guidance for agencies with regard to:

- *“(i) prohibited uses of direct Federal financial assistance and separation requirements”; and*
- *“(ii) protections for religious identity”.*

Consistent with recommendations in the Advisory Council Report and E.O. 13559, the Working Group developed model guidance to clarify prohibited uses of direct Federal financial assistance and ensure the preservation of faith-based organizations' identity, including through separation requirements. *See* Advisory Council Report, 129-33; §§ 2(f) and (g), E.O. 13279, as amended.

As set forth below, the Working Group developed model guidance in these areas, which include the following elements. These model guidance documents are intended to supplement, rather than to replace, agencies' initiatives to amend their existing regulations to conform to E.O. 13559:

1. Examples of “explicitly religious activities.” These include examples and brief case studies to explain the meaning of the term, noting that any explicitly religious activity must be privately funded and offered separately in time or location from programs funded by direct Federal financial assistance.
2. Clarification that the restrictions on explicitly religious activities apply only to activities generated by the administrators, instructors, or officials of Federally-funded programs, not to spontaneous comments made by individual beneficiaries in the context of those programs.
3. Preservation of faith-based organizations' religious identities.
4. Separation of explicitly religious activities from Federally-funded program activities, largely adapting principles from the Department of Health and Human Services (HHS) existing *Safeguards Required* guidance² for general use.

Several agencies submitted to the Working Group existing rules and guidance related to these concepts that assisted the Working Group in developing its model guidance. In particular, items 1, 2, and 4 were addressed in HHS and Department of Education guidance that has served as the framework upon which agencies represented in the Working Group have provided additional proposals, text, and input to create model documents to be implemented on a government-wide basis. In the model guidance, emphasis has also been placed on the protections for each faith-based organization's identity consistent with item 3. In addition to the model guidance set forth below, items 1-3 are addressed further in Appendix A, and item 4 is addressed further in Appendix B.

² HHS's guidance document *Safeguards Required*, which was incorporated into a litigation settlement, articulates a number of principles for separating programs with explicitly religious activity from programs supported by direct federal aid. *See* Advisory Council Report, Appendix, at 149.

Model Guidance

The purpose of this guidance is to provide government employees and faith-based and other neighborhood organizations that receive Federal financial assistance with clear and uniform instructions on fundamental principles that apply to their awards. Specifically, this guidance addresses both prohibited religious uses of direct Federal financial assistance and protections and separation requirements to ensure that faith-based groups are able to retain their religious identity after receiving an award.

Prohibited Uses of Direct Federal Financial Assistance

Section 2(g) of E.O. 13279, as amended by E.O. 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.” This prohibition applies regardless of whether the directly funded program activity is paid in part with non-Federal funds.³ As explained further below, any explicitly religious activity must be privately funded and offered separately in time or location from programs funded by direct Federal financial assistance.

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 Federal 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 funded by Federal financial assistance, the program should be aware that the bar against use of Federal funding for explicitly religious activities applies only to those activities, speech, and materials that are generated or controlled by the *administrators, instructors, or officials* of the Federally-funded program. The requirement 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 Federal 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.

The restriction against explicitly religious activities might not apply to some programs, such as 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. *See Cruz v. Beto*, 405 U.S. 319, 322 n.2 (1972) (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.”); *Abington School District 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 to prisoners ... cut off by the State from all civilian opportunities for public communion.”). If you have questions about whether one of your programs might be exempt from the bar on the use of direct Federal aid for explicitly religious activities, you should contact the awarding agency.

³ The model guidance provided in this chapter applies only to programs funded either in whole or in part through direct Federal financial assistance, and does not apply to indirectly-funded programs. For a discussion of the distinction between “direct” and “indirect” funding, see chapter 2.

Preserving Faith-Based Organizations' Religious Identity

While faith-based organizations need to ensure that programs directly funded by the government comply with the requirement that these programs be religiously neutral, various protections also exist to ensure that faith-based organizations do not have to change their religious identities after receiving a Federal award. Religious entities may receive Federal funds to support social service programs without impairing their “independence, autonomy, expression outside the programs in question, or religious character.” § 2(g), E.O. 13279, as amended. Accordingly, a faith-based organization that applies for, or participates in, a social service program supported with Federal funds may continue to carry out its mission in this way, including the definition, development, practice, and expression of its religious beliefs. See *id.* 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 Federally-funded 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 Federal 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. See *id.* Faith-based organizations that provide social services retain these rights while observing the separation requirements described further below.

Separation of Explicitly Religious Activities

Section 2(f) of E.O. 13279, as amended by E.O. 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.

§ 2(f), E.O. 13279, as amended by E.O. 13559.

In addition to the worship and religious services that faith-based organizations continue 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 church may carry out two mentoring programs, one of which is privately-funded and overtly religious, while the other is Federally-funded and free of explicitly religious content. But where religious activities or programs are undertaken, it must be clear that they are separate and distinct and that participation in the religious activities is voluntary for participants in the Federal program.

As recommended by the Advisory Council, the following guidance outlines ways to ensure that an explicitly religious program and a program funded by direct Federal aid are separate and distinct.

1. Separate and Distinct Programs

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 Federally-funded program, and the distinction is completely clear to the beneficiary or prospective beneficiary. *See* § 2(d) of E.O. 13279, as amended by E.O. 13559; 75 Fed. Reg. 71319, 71320 (Nov. 22, 2010). Some of the ways in which this may be accomplished include, but are not limited to, the following examples:

- Creating separate and distinct names for the programs;
- Creating distinct appearances for the materials used to promote each program;
- Establishing separate registrations for the programs; and
- Promoting only the Federally-funded program in materials, websites or commercials purchased with any portion of Federal funds.

Websites with explicitly religious content may include a link to the page promoting the Federally-funded program; the page about the Federally funded program may be supported through Federal funds, but the explicitly religious page may not.

2. Separate Presentations

Implement measures to separate the presentation of any program with religious content from the presentation of the Federally-funded 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 of the same site at the same time, the service provider may separate programs through such means as:
 - Completely separate registration locations; and
 - Completely separate areas where programs are held such as by room, hallway, or floor.

Note: If an organization offers a Federally-funded 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 maintained.

3. Explicitly Religious and Explicitly Anti-Religious Activities

Eliminate all explicitly religious and explicitly anti-religious activities from the content of the Federally-funded program. *See* § 1(b), E.O. 13279, as amended; 75 Fed. Reg. 71319, 71320 (Nov. 22, 2010). 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 expressly intended to dissuade program participants from religious beliefs.

4. Cost Allocation

Demonstrate that Federal funds are only being used for the Federally-funded program. 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-funded program, whether the staff work in other programs or not.
- Require that staff working in both Federally-funded programs and other programs indicate clearly how many hours are spent on each program.
- Require that any staff working on both a Federally-funded program and a non-Federally-funded program, at the same site and on the same day, clearly indicate both the number of hours spent on the Federally-funded 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-funded program.
- Show cost allocations for all items and activities that involve both Federally-funded and non-Federally funded 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-funded program travel to a site where the organization conducts both a Federally-funded program and a privately-funded religious program, then one-half of the travel costs (e.g., gas, lodging, and other related expenses) should 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-funded, then only one third of the travel costs should be charged to the Federal program.
 - Example: if an electronic device is used 30% of the time for the Federally-funded program, this use should be demonstrated through clear record keeping. Only 30% of the cost of the electronic device should be charged to the Federally-funded program.

See OMB Circular A-122, Attachment A, § A.4.a.(2) (“Cost Principles for Non-Profit Organizations”); OMB Circular A-87, Attachment A, § C.3.a (“Cost Principles for State, Local, and Indian Tribal Governments”); OMB Circular A-21, Attachment, “Principles for determining costs applicable to grants, contracts, and other agreements with educational institutions” § C.4.a (“Cost Principles for Educational Institutions”); and 48 CFR § 31.201-4(b) (“Contracts with Commercial Organizations”).

5. Eligibility, Outreach, and Recruitment

Ensure that the Federally-funded program is open to all qualified beneficiaries, regardless of their religious beliefs or practice. *See* § 2(d) of E.O. 13279, as amended by E.O. 13559; 75 Fed. Reg. 71319, 71320 (Nov. 22, 2010). Federal award recipients may not establish selection criteria that have the effect of discriminating against beneficiaries based on religion or non-religion. Accordingly, Federally-funded

programs should not limit outreach, recruitment efforts, or advertising of the Federal program services exclusively to religious or non-religious target populations.

6. Availability of Separate Religious Programs

After the Federally-funded 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-funded program and the religious program must at all times be clear. The invitation should make it clear that the religious program is a separate program from, and not a continuation of, or complementary to, the Federally-funded program. It also must be clear that participants are not required to attend the separate religious program, and that participation in Federally-funded programs is not contingent on participation in other programs sponsored by the organization. *See Appendix B* for examples. If the beneficiaries are children, then Federally-funded programs must 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.

2. “Indirect” and “Direct” Federal Financial Assistance and the Role of Intermediaries

2. “Indirect” and “Direct” Federal Financial Assistance and the Role of Intermediaries

Pursuant to Section 3(b) of E.O. 13279, as amended, this chapter provides model regulations and guidance for agencies with regard to:

- “(iii) the distinction between “direct” and “indirect” Federal financial assistance”; and
- “(vi) obligations of nongovernmental and governmental intermediaries”.

A. “Direct” and “Indirect” Federal Financial Assistance

The distinction between “direct” and “indirect” Federal financial assistance significantly affects some service providers that receive Federal funds. While the prohibition against “explicitly religious activities” applies to programs that are “directly” funded, *see* § 2(g), E.O. 13279, as amended by E.O. 13559, the prohibition does not apply to “indirectly” funded programs. To assist service providers in determining whether their programs are directly funded, and therefore subject to the prohibition against explicitly religious activities, we recommend that Federal agencies define both “direct” and “indirect” funding in the text of rules implementing this prohibition.

The following model rule text and preamble language are based on principles in the Supreme Court’s decision, *Zelman v. Simmons-Harris*, 536 U.S. 639 (2002), as applied by various Federal agencies with existing rules that recognize the distinction between direct and indirect funding. While agencies should adopt the models set forth below to the extent practicable to promote a uniform approach among Federal programs, in some instances, agencies may find it necessary to revise the model text to comport with particular aspects of affected programs. While the vast majority of social service programs receiving federal funding are funded through direct financial assistance, we also recommend that Federal agencies identify their programs as either directly- or indirectly-funded when publishing notices such as requests for proposals, funding opportunity announcements, and awards.

It is also important to note that although E.O. 13279, as amended by E.O. 13559, addresses explicitly religious activities with respect to programs supported with direct Federal financial assistance, the Establishment Clause may independently limit the ability of organizations to engage in such activities even with indirect Federal funds if the government funding scheme does not offer a “true private choice.” *Zelman*, 536 U.S. at 662.⁴

Model Regulatory Language

The Working Group recommends that the following language, which is based substantially on HHS rule text in the Temporary Assistance for Needy Families (TANF) program at 45 C.F.R. § 260.34(a),⁵ be used as model text for Federal agencies:

Direct funding or funds provided directly means that the government or an intermediate organization [under this part] selects the provider and either purchases services from that provider (e.g., via a

⁴ In the *Zelman* decision, the Supreme Court addressed a program of “true private choice” that included, among others, the following features: (1) the program was neutral toward religion; (2) any funds flowing to religious entities arrived there by virtue of the decisions of individuals rather than as direct payments from the state; and (3) the program offered beneficiaries genuine secular options if they choose to seek such options. *Zelman*, 536 U.S. at 653-54.

⁵ References in this report to particular agency regulations do not imply that the Working Group endorses all elements of those regulations or recommends them for government-wide applicability.

contract) or awards funds to that provider to carry out a service (e.g., via grant or cooperative agreement).

Indirect funding or funds provided indirectly 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.

Model Preamble Language

The Working Group also recommends that agencies adopt preamble language to identify the legal and practical rationale for the definitions proposed above. Several agency rules include preamble texts that are instructive. *See, e.g.*, 68 Fed. Reg. 56430 (HHS preamble in the Substance Abuse and Mental Health Services Administration); 68 Fed. Reg. 56449 (HHS preamble in the TANF program); 69 Fed. Reg. 31708 (Department of Education preamble for Education programs). Based upon these texts, we recommend that the following language be adopted by Federal agencies to the extent practicable:

The limitation on explicitly religious activities applies to faith-based and neighborhood programs that are “directly” funded, but does not apply to “indirectly” funded programs. To clarify this distinction, we are providing definitions of these terms in the rule text. Programs are funded directly when either the government or an “intermediate organization,” as identified in these rules, selects a service provider and either purchases services from that provider (e.g., through a contract) or awards funds to that provider to carry out a social service (e.g., through a grant or cooperative agreement). Under these circumstances, there are no intervening steps in which the beneficiary’s choice determines the provider’s identity.

Indirect funding is distinguishable because it places the choice of service provider in the hands of a beneficiary before the government pays for the cost of that service through a voucher, certificate, or other similar means. For example, a governmental agency, operating under a neutral program of aid, could present each beneficiary or prospective beneficiary with a list of all qualified providers from which the beneficiary could obtain services using a government-provided certificate. Alternatively, the government could choose to allow the beneficiary to secure the needed service on his or her own. Either way, the government empowers the beneficiary to choose for himself or herself whether to receive the needed services through a faith-based or other neighborhood organization. The government could then pay for the beneficiary’s choice of provider by giving the beneficiary a voucher or similar document. Alternatively, the government could choose to pay the provider directly after asking the beneficiary to indicate his or her choice. *See Freedom from Religion Found., Inc. v. McCallum*, 324 F.3d 880 (7th Cir. 2003).

The Supreme Court has held that governments may fund programs that, among other things, place the benefit in the hands of individuals, who in turn have the freedom to choose the provider to which they take their benefit and “spend” it, whether that provider is public or private, non-religious or religious. *See Zelman v. Simmons-Harris*, 536 U.S. 639 (2002). In these instances, the government does not encourage or promote any explicitly religious programs that may be among the options available to beneficiaries. Notably, the voucher scheme at issue in the *Zelman* decision, which was described by the Court as one of “true private choice,” was also neutral toward religion and offered beneficiaries genuine secular options.

B. Role of Intermediary Organizations

An intermediary is 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 government funds and distributes

them to other organizations that, in turn, provide government-funded social services. We recommend that Federal agencies define the responsibilities of intermediaries to clarify that *each* intermediary organization must abide by all statutory and regulatory requirements, including, for example, selecting any Federally-funded providers in a manner that does not favor or disfavor organizations on the basis of religion or religious belief. It is also important for intermediaries to be made aware that they have an obligation to monitor sub-grantees and sub-contractors to ensure that they comply with these rules. We therefore recommend that Federal agencies address the responsibilities of intermediaries in the text of the rules implementing E.O.13279, as amended.

We offer the following model rule text and preamble language for agencies to adopt to the extent appropriate. Some agencies may find it necessary to revise this model text to comport with particular aspects of affected programs.

Model Regulatory Language

The Working Group recommends the following language, which is based substantially on HHS rule text in both the TANF program, at 45 C.F.R. § 260.34(k), and the Substance Abuse and Mental Health Services (SAMHSA) programs, at 42 C.F.R. § 54.12⁶:

If a non-governmental organization (referred to here as an “intermediate organization”), acting under a contract, grant, or other agreement with the Federal Government or with a State or local government, is given the authority under the contract, grant, or agreement to select non-governmental organizations to provide services funded by the Federal government, the intermediate organization must ensure compliance with the provisions of E.O. 13559 and any implementing rules or guidance. The intermediate organization retains all other rights of a non-governmental organization under the program’s statutory and regulatory provisions.

Model Preamble Language

The Working Group also recommends that agencies adopt preamble language to further clarify these obligations. Several agencies have adopted preamble language that is instructive. *See, e.g.*, 68 Fed. Reg. 56430 (SAMHSA preamble) and 68 Fed. Reg. 56449 (TANF preamble).⁷ Based upon these examples, the following is model preamble language that may be uniformly adopted by Federal agencies implementing the above-referenced regulatory provision.

An intermediary is an organization, acting under a contract, grant, or other agreement with the Federal Government or with a State or local government, that accepts government funds and distributes them to other organizations that, in turn, provide government-funded social services. Each intermediary organization must abide by all statutory and regulatory requirements by, for example, providing any directly funded services in a religiously neutral manner that does not include explicitly religious activities. The intermediate organization also has the same duties as the government to comply with these rules by, for example, selecting any Federally-funded providers in a manner that does not favor or disfavor organizations on the basis of religion or religious belief. While intermediary organizations may be used to distribute Federal funds to other organizations in some programs, we emphasize that intermediary units remain accountable for the Federal funds they disperse. Accordingly, intermediate organizations must ensure that any providers to which they disperse Federal funds also comply with these rules. The intermediate organization retains all other rights of a non-governmental organization under the program provisions.

⁶ *Id.*

⁷ *Id.*

Model Supplemental Preamble Language for Programs for which States are Eligible

The Working Group also recommends that the following model preamble language, based on the same TANF and SAMHSA authorities, be added by Federal agencies implementing rules for Federal funding programs for which States are eligible:

A State's use of intermediate organizations does not relieve the State of its traditional responsibility to effectively monitor the actions of such organizations. States are obligated to manage the day-to-day operations of grant- and sub-grant- supported activities to ensure compliance with applicable Federal requirements and performance goals. Moreover, a State's use of intermediate organizations does not relieve the State of its responsibility to ensure that providers are selected, and deliver services, in a manner consistent with the Establishment Clause.

3. Protections for Beneficiaries

3. Protections for Beneficiaries

Pursuant to Section 3(b) of E.O. 13279, as amended, this chapter provides model guidance for agencies with regard to:

- *“(iv) protections for beneficiaries of social service programs”.*

Section 2(h) of E.O. 13279, as amended by E.O. 13559, provides as follows:

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.

See § (2)(h), EO. 13279, as amended by E.O. 13559.

Model Regulatory Language

The Working Group believes that the application of the E.O. may be tailored to fit the particular circumstances of various social services programs supported by the government. Accordingly, as set forth below, the Working Group recommends broad regulatory language that closely tracks the language of the E.O. in order to provide the greatest flexibility to departments and agencies in carrying out its requirements:

Organizations administering [Federal Department or Agency]-funded programs must give written notice in a manner prescribed by [Federal Department or Agency] to all beneficiaries and prospective beneficiaries of their right to be referred to an alternative provider when available. If a beneficiary or prospective beneficiary of a social service program supported by [Federal Department or Agency] objects to the religious character of an organization that provides services under the program, that organization shall, within a reasonable prompt time after the objection, undertake reasonable efforts to identify and refer the beneficiary to an alternative provider to which the prospective beneficiary has no objection. Except for services provided by telephone, internet, or similar means, the referral should be to an alternate provider in reasonable geographic proximity to the organization making the referral. In making the referral, the organization shall comply with all applicable privacy laws and regulations. Once an objection has been made, the organization shall notify [the Federal Department or Agency] in a manner prescribed by [the Federal Department or Agency] and shall follow up with the beneficiary or prospective beneficiary, where possible, or with the alternate provider to determine whether the beneficiary or the prospective beneficiary contacted the alternate provider or

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

In order to give meaningful guidance to the departments and agencies, the Working Group drafted two additional documents: a set of suggested answers to commonly asked questions and a sample form that organizations may use when making referrals. *See* Appendices C and D. These documents highlight the major policy considerations addressed by the Working Group, including how notice of the right to object to the religious character of an organization must be given, how the right may be invoked, what is meant by objection to the religious character of an organization, how referrals must be made, and how referrals must be tracked. The answers to the questions provide material that may be worked into regulatory language by the agencies or that may be used for additional guidance if the Working Group's model regulatory language is adopted.

In general, the Working Group did not take the position that the responsibility to provide a referral should rest solely with state, local, or Federal government. In the sub-grant context (where a state or local entity receives Federal funds and then passes them to sub-recipients), putting the burden of making referrals onto the government could create a disincentive to funding faith-based and neighborhood organizations, which in turn could undermine the principles of the E.O. The Working Group tried to minimize this burden by creating a one-page sample form that could be adopted by organizations and that would permit potential beneficiaries to opt out of follow-up by the referring organizations. *See* Appendix D. At the same time, state, local, and Federal agencies should take appropriate steps to minimize the burden placed on referring organizations, particularly when these organizations are small.

4. Transparency

4. Transparency

Pursuant to Section 3(b) of E.O. 13279, as amended, this Chapter provides model guidance for agencies with regard to:

- *“(v) transparency requirements, consistent with and in furtherance of existing open government initiatives”.*

Section 2(i) of E.O. 13279, as amended by E.O. 13559, provides that “[t]o 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 [the E.O.]” *See* § (2)(i), E.O. 13279, as amended. Further, “[a]gencies 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 [the E.O.]” *See id.*

Model Guidance

To implement the transparency requirements described above, the Working Group recommends the following:

- (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 Federal financial assistance used to support social service programs. *See id.* at §§ (2)(b) and (g).
 - Policies to ensure separation in time or location of explicitly religious activities from programs or services supported with direct Federal financial assistance. *See id.* at § (2)(f).
 - Policies to implement Federal programs in compliance with Establishment and Free Exercise Clauses (including prohibited uses of Federal funding). *See id.* at § (2)(e).
 - Policies and procedures that provide guidance to ensure that the organizations funded by the Federal program make appropriate and timely referrals to an alternative provider, where beneficiaries object to the religious character of an organization that provides a social service program. *See id.* at § (2)(h).
 - Policies regarding the award of Federal financial assistance, including policies providing that decisions must be 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.* at § (2)(j).

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 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 § (2)(i) of the E.O. 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.

5. Training and Monitoring

5. Training and Monitoring

Pursuant to Section 3(b) of E.O. 13279, as amended, this chapter provides model guidance for agencies with regard to:

- *“(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.”*

Section 2(e) of E.O. 13279, as amended by E.O. 13559, provides that 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.” *See* § 2(e) of E.O. 13279, as amended. In addition, Recommendation 9 of the Advisory Council’s Report proposed that mechanisms be established to guard against inappropriate uses of Federal funds.

In respecting the constitutional command against excessive entanglement, the government need not, and should not, engage in “pervasive monitoring” of religious bodies,⁸ and its oversight need not constitute a “failsafe mechanism capable of detecting *any* instance of diversion” of government aid to religious use.⁹ At the same time, the government would fail to discharge its responsibilities if its safeguards “exist in theory only” or “only on paper.”¹⁰ 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.¹¹

Model Guidance

Consistent with E.O. 13279, as amended, and addressing Recommendation 9 of the Advisory Council’s Report, agencies should take 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.

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

Self-reporting. Agencies should develop a procedure by which all recipients of Federal financial assistance should report how they plan to comply with the separation requirements of the relevant Executive Orders and this guidance if they offer separate, privately funded social service programs that offer explicitly religious activities. Agencies should ensure that these activities are separate from direct aid programs. When separation requirements are respected, agencies have no role in reviewing the content of these privately funded programs. Recipients should report their plans for referring beneficiaries to alternative providers in the case of an objection.

⁸ *Lemon v. Kurtzman*, 403 U.S. 602, 627 (1971) (Douglas, J., concurring).

⁹ *Mitchell v. Helms*, 530 U.S. at 861 (O’Connor, J., concurring in the judgment).

¹⁰ Advisory Council Report, at 137 (quoting *Freedom From Religion Foundation v. McCallum*, 179 F. Supp. 2d 950, 976-77 (W.D. Wisc. 2002)).

¹¹ *See id.* (collecting cases).

Enforcement. Agencies should develop and implement plans for enforcement or corrective action in the event of non-compliance.

In addition, also 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 funded 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 programs when developing monitoring plans:

Recommendations for Monitoring Faith-Based and Neighborhood Recipients of Financial Assistance

All Federal agency staff tasked with monitoring the recipients of 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 offices. Grant and contracting officers, as well as program specialists, should be encouraged to monitor awards through effective methods, which should include the following:

1. conducting monitoring-related phone calls;
2. reviewing recipient-provided correspondence (including e-mail) 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 13559 and 13279, and agencies should be encouraged to make reasonable efforts to adopt such oversight measures where appropriate.

Finally, the Working Group drafted four model training tools (see Appendices F(1), (2), (3), and (4)), based on those used in HHS programs, which all Federal agencies should use to train Federal staff, award recipients, and grant and contract reviewers on the governing principles. These presentations may be conducted by agency attorneys, agency centers for faith-based and neighborhood partnership administrators, or any other Federal personnel.

Staff Training

Several of the model training tools are appropriate for training of Federal staff, including grant, contract,

and program office personnel. Among these tools, a model presentation identifying the fundamental principles that apply to partnerships with faith-based and other neighborhood organizations is provided. *See* Appendix F(1). Further, to facilitate more in-depth presentations, a “presenter’s guide” is included for instructors to integrate specific guidance into a presentation, where warranted. *See* Appendix F(2). Finally, a model summary of the principles is provided as a concise handout to be retained by attendees for future reference. *See* Appendix F(3).

Award Recipients

The same tools recommended to train Federal staff should also be used to train grant and contract awardees. Opportunities to train award recipients may occur at conferences, technical assistance roundtables, workshops, and other meetings between award recipients and Federal staff. For these forums, the Working Group also has provided a model Q&A exercise that may be used as an interactive means of ensuring that award-recipient staff understand the fundamental principles that are taught. *See* Appendix F(4).

Grant and contract reviewers

The personnel who review grant and contract applications ordinarily have a specific obligation to determine whether funding applications propose any activities that do not comply with the principles of the E.O. This should allow for any non-compliance concerns to be reconciled prior to awarding a grant or contract. Consequently, the Working Group has provided a model guide to train grant and contract reviewers by instructing these personnel to consider specific questions during the review of applications, such as whether the applications propose explicitly religious activities. *See* Appendix E. Grant and contract reviewers also should be provided with the model summary of “Fundamental Principles and Policies” as a succinct reference. *See* Appendix F(3).

Because of the wide range of Federal programs, with varying degrees of compliance concerns, the Working Group recommends that Federal agencies retain the discretion to determine which of these monitoring measures and training tools are appropriate in each particular program context. The proportion of faith-based and neighborhood organizations participating in a particular program varies considerably across agencies, given the array of social service programs authorized across the Federal government, and therefore program offices should be afforded some degree of flexibility in making these administrative decisions.

Appendices

Prohibited Uses of Federal Funds: Prohibited Activities

Suggested Answers to Commonly Asked Questions

The following are suggested answers to commonly asked questions that may arise in Federal programs. Although specific programs are identified, the principles also are intended to be useful in other similar program contexts. If you have questions that are not answered here, please consult your Federal program office through the program's project officer, contracting officer, or other responsible Federal official.

I. “Explicitly Religious Activities”

Q1: In addition to worship, religious instruction, and proselytizing, are there other examples of “explicitly religious activities”?

A1: Yes. Other examples of explicitly religious activities and materials include, for example, religious instruction, devotional exercises, or evangelism, 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, a devotional booklet for a substance abuse program or prisoner re-entry program, or the provision of a 12-step Alcoholics Anonymous program, 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.

Q2: Are there examples of activities in which Federally-funded staff may refer to religion without violating the prohibition against “explicitly religious activities”?

A2: Yes. Any reference to religion should be viewed in its full context to determine whether the activity is neutral to religion, and whether there are instances in which religious references made by program administrators, instructors, or officials are neutral to religion. For example, staff in Federally-funded programs may not provide devotional religious instruction, but, where consistent with the purposes of the program, they may teach about religion, such as the history of religion, comparative religion, literary and other analysis of the Bible and other scripture, and the role of religion in the history of the United States and other countries. Such instruction may make use of the Bible or other scripture. Similarly, it is permissible for staff in Federally-funded programs to discuss any topics consistent with the program's purposes, including religious influences on art, music, literature, and social studies.

II. Curricula and Other Texts

Q3: What should I do if I have considered whether a curriculum or other activity for my Federally-funded program is neutral toward religion, but I am still not certain?

A3: If award-recipient staff reviewed the curriculum and text to be used in their Federally-supported programs but have remaining concerns as to whether the materials are neutral to religion, they may contact their Federal program office through the program's project officer, contracting officer, or other responsible Federal official with their concern.

III. Statements Made by Beneficiaries

A. Program and Class Assignments

Q4: If a staff person in our Federally-funded program provides students or other program beneficiaries with an assignment to give an oral or written report, should the instructor also prohibit the participants from endorsing any religious or anti-religious views in their response?

A 4: No. Students and other beneficiaries may express their beliefs about religion in homework, artwork, and other written and oral assignments free from religious discrimination. Such home and classroom work should be judged by ordinary standards of substance and relevance and against other legitimate pedagogical concerns identified by the school or service provider. Thus, if a teacher or instructor assigns a student to write a poem, and the student writes a poem in the form of a prayer (for example, a psalm), the poem should be judged on academic standards (such as literary quality) and neither penalized nor rewarded on account of religious content.

B. Classroom and Similar Discussions

Q 5: May staff in our Federally-funded program lead a discussion in which the beneficiaries refer to their religious beliefs?

A 5: Yes. The basic principle is that beneficiaries may express their religious beliefs, while staff must remain neutral. When social service providers, schools, or other Federally-supported programs permit beneficiaries and students to express their views on the basis of neutral criteria, when the beneficiaries and students retain primary control over the content of their expression, and when staff neither invite nor endorse specifically religious speech, then the speech is not attributable to the government, and its expression is both permissible and protected. Staff working with school children should take care not to create classroom situations that would impose coercive pressures on non-believing or dissenting children to conform to the views of their peers.

In the social service context, for example, an instructor teaching an abstinence education program may acknowledge a student's religious beliefs in a manner that is neutral to religion. If a student in the class comments on his or her Christian beliefs, the teacher may acknowledge that many faiths have important teachings on sexuality and that an individual's faith may play an important role in making a decision on this matter. It would be inappropriate for the teacher to say or imply that religion is irrelevant to the topic, since such a statement would violate the principles of neutrality with respect to religion. Depending on the time permitted and the level of interest expressed by the student, the teacher may explore a variety of religious and non-religious influences on the subject of premarital sexual activity, provided that he or she does not convey any view as to whether any of the religious teachings are the correct or better view, and should suggest that further discussion or questions be addressed to the student's parents or guardians. If the student expresses interest in discussing or questioning with a religious leader or expert, the teacher may suggest that the student speak with a member of the clergy of his or her choice. If a student expresses interest in discussing or questioning a non-religious leader or expert, the teacher may suggest that the student seek out such leaders for guidance.

Similarly, a facilitator in a marriage promotion program, for example, may use curricula designed to generate discussions between couples to discern whether they have compatible beliefs on a variety of issues that may include the topic of compatible religious views. In this scenario, the instructor may ask questions but must remain neutral. The instructor cannot encourage or discourage participants to adopt religious beliefs or engage in religious practices. If a teacher or facilitator at a Federally-funded program recommends outside texts to participants, those outside texts must be neutral to religion.

Q 6: If we invite guest speakers to talk to the recipients in our program, do we need to prohibit the guest speakers from referring to religion?

A 6: An administrator should not invite or encourage religious or anti-religious speech by guest speakers. If speakers nonetheless engage in such speech, the administering staff should make appropriate, neutral disclaimers to clarify that such speech (whether religious or anti-religious) is the speaker's and not the service provider's. This will help to avoid any mistaken perception that a service provider endorses speech by a guest speaker that is not in fact attributable to the service provider.

IV. Prayer

Q 7: Are there circumstances in which persons attending a Federally-funded program may choose to pray on their own during the program?

A 7: Yes. Attending a Federally-funded program does not affect an individual's right to pray. As a general matter, program beneficiaries may pray at any time, subject to the same rules designed to prevent material disruption of the program that are applied to any other privately-initiated speech. However, no prayer may be sponsored, led, or organized by persons who administer the programs during the course of the program.

V. Protections for Religious Identity

Q 8: May a social service provider that has received a Federal grant to conduct presentations that are neutral to religion accept an invitation to present at a religious setting such as a church or church-affiliated summer school as a part of that Federal program?

A 8: Yes. A social service provider should handle requests for presentations in an even-handed fashion that neither favors nor disfavors religion, a particular religious institution, or the religious affiliation of those in attendance. Project services should be offered in a religiously neutral fashion, and decisions about where to offer presentations or provide services should be made on criteria that are relevant to the program, such as efficiency, need, public requests, or geographic balance, rather than on any criteria that are related to religion.

Q 9: May Federally-funded grant recipients provide services in the same facility that also houses a religious library?

A 9: Yes. This availability of religious texts in a library would present a legal concern only if the administrators, instructors, or other officials also urged persons who receive Federally-funded services to read the material.

Prohibited Uses of Federal Funds: Separate Religious Programs

Suggested Answers to Commonly Asked Questions

The following are answers to commonly asked questions that may arise in Federal programs. Where specific programs are identified, the principles also are intended to be useful in other similar program contexts. If you have questions that are not answered here, please consult your Federal program office through the program's project officer, contracting officer, or other responsible Federal official.

I. Availability of Other Programs

Q1: May a Federally-funded organization provide applicants and beneficiaries with a list of other available programs that includes programs with explicitly religious content?

A1: Yes. If the organization has developed a list of "available programs," rather than recommended programs or referrals, based on religiously neutral criteria such as service providers in the immediate geographic region, then that list may include programs with secular content and programs with explicitly religious content.

Q2: May a Federally-funded program for youth, such as a teen pregnancy prevention program, initiate loudspeaker invitations to attend separate religious activities that will be held in another room of the facility?

A2: Yes, so long as the invitations are brief and non-coercive and it is clear that the religious activities are separate, privately funded, and voluntary for beneficiaries. The demarcation between the Federally-funded program and the religious program must at all times be clear. Participants must be aware that they are not required to attend the religious program. As participants are minors in this case, the program must obtain parental consent to invite the youth to the religious activities, because parental consent will help ensure that any participation is voluntary. If a parent refuses to provide parental consent, the program should ensure that those youth are not present when an invitation to a religious activity is extended.

The service provider should not pay for the cost of religious services or any invitations with Federal funds.

II. Separate and Distinct Programs

Q3: May a Federally-funded abstinence education provider, for example, make religious counseling available to teen beneficiaries?

A3: Yes. As long as the religious counseling is requested voluntarily by the program participants, the counselors are not paid with Federal funds, and their counseling services are separated by time or location from the Federally-funded services, then the service provider may make religious counseling available. The demarcation between the Federally-funded program and religious counseling must at all times be clear. Participants must be aware that they are not required to attend religious counseling. Where the program participants are minors, the provider must obtain parental consent to invite the youth to religious counseling.

III. Advertising and Recruitment

Q4: Does the prohibition against using religious criteria to select beneficiaries in Federally-funded programs mean that funded service providers must ensure that program participants represent a variety of faith traditions?

A4: No. Federally-funded programs need to be accessible to the general public regardless of the faith or lack of faith of applicants and participants. This does not mean that a legal concern necessarily arises where most participants in a target area are of a single religious tradition because, for example, the program is located in a region where the population has a predominant faith tradition. The representation of religious backgrounds among those attending a program may vary for reasons unrelated to the recipient's eligibility criteria. However, a Federally-funded service provider is prohibited from selecting a target group of participants or tailoring recruitment efforts based on religious affiliation.

IV. Youth

Q5: If my Federally-funded program has a separate and distinct religious component, and the program serves youth, does my program need to obtain parental consent to invite the youth to the religious activities?

A5: Yes. If a Federally-funded program serves youth, the program should obtain parental consent to invite the youth to any separate and distinct religious activities, because parental consent will help ensure that any participation is voluntary. If a parent refuses to provide parental consent, the program should ensure that those youth are not present when any invitation to a religious activity is extended.

Protections for Beneficiaries
Suggested Answers to Commonly Asked Questions

The following are answers to commonly asked questions that may arise in Federal programs. Where specific programs are identified, the principles also are intended to be useful in other similar program contexts. If you have questions that are not answered here, please consult your Federal program office through the program's project officer, contracting officer, or other responsible Federal official.

Q1. What does it mean for a beneficiary to object to the “religious character” of an organization?

A1. The protections afforded to prospective beneficiaries by the model rule set forth above (see chapter 2) arise when a prospective beneficiary objects to the “religious character” of an organization that provides Federally-funded services. If, for example, a prospective beneficiary objects to the fact that an emergency food pantry is administered by a specific religious group, such objection would relate to the organization's “religious character.” By contrast, if the prospective beneficiary objects only to the religion of an individual employee of the organization that operates the food pantry, there is no objection to the “religious character” of the organization, and therefore the protections that this rule affords are not implicated.

An objection to “religious character” is wholly separate and distinct from an objection to explicitly religious activities that an organization conducts without separation from Federally-funded activities in either time or location. As explained above, the integration of explicitly religious activities into a direct aid program is prohibited.

Q2. If a prospective beneficiary objects to the religious character of an organization, in what form must the objection be made?

A2. *Recommended Answer: Option 1 (More agency control).* The model rule does not require that a prospective beneficiary follow any specific format in making an objection, but it must be reasonably clear under the circumstances that he or she objects to the service provider *because of its religious character*. Federal funding agencies may provide guidance specifying an acceptable format for the prospective beneficiary's objection. However, any specified format must neither unduly limit the prospective beneficiary's ability to object nor impose an undue burden on a prospective beneficiary who seeks to state an objection and to be referred to an alternative provider. A potential beneficiary may object orally or in writing, as long as the organization keeps a written record of the objection and reports on it. The objection may include the individual's name unless he or she has withheld it or asked that it not be recorded. If a prospective beneficiary withholds his or her name, the organization must inform the prospective beneficiary that it will not be able to follow up on the referral. Under no circumstances, however, may an organization violate applicable privacy laws and regulations in following up with beneficiaries. Subject to the organization's reporting obligations to the funding agency, the organization must keep the personal and identifying information of prospective beneficiaries confidential.

In addition to the above recommended answer, the Working Group developed two alternative options in the event that either of these is more applicable to an agency's situation than the answer above:

Option 2 (More agency control, but without addressing an individual's right to withhold his or her name). The model rule does not require that a prospective beneficiary follow any specific format in making an objection, but it must be reasonably clear under the circumstances that he or she objects to the service provider *because of its religious character*. Federal funding agencies may provide guidance specifying an acceptable format for the prospective beneficiary's objection. However, any specified format must not unduly limit the prospective

beneficiary's ability to object, impose an undue burden on a prospective beneficiary seeking to state an objection and to be referred to an alternative provider, or violate any privacy rights to which the prospective beneficiary is entitled. A faith-based organization may not require a potential beneficiary to sign a written statement of objection in order to be referred to an alternate provider. Subject to the organization's reporting obligations to the funding agency, the organization must keep the personal and identifying information of prospective beneficiaries confidential.

Option 3 (Less agency control and greater protection for a prospective beneficiary). The model rule does not require that a prospective beneficiary follow any specific format in making an objection, but it must be reasonably clear under the circumstances that he or she objects to the service provider *because of its religious character*. An organization may not require a potential beneficiary to sign a written statement of objection in order to be referred to an alternative provider. However, the organization is required to keep a written record and to report on the prospective beneficiary's objection, which may include the individual's name unless he or she has withheld it or has asked that it not be recorded. If a prospective beneficiary withholds his or her name, the organization must inform the prospective beneficiary that it will not follow up on the referral. Under no circumstances, however, may an organization violate applicable privacy laws and regulations in following up with beneficiaries. Subject to the organization's reporting obligations to the funding agency, the organization must keep the personal and identifying information of prospective beneficiaries confidential.

Q3. What content is required for the written notice to beneficiaries?

A3. A Federal funding agency may provide guidance regarding the proper form and content of the written notice. At a minimum, the written notice must apprise the prospective beneficiary that he or she may object to the organization's "religious character" and, upon objection, receive a referral to an alternative provider. If an agency prescribes a certain procedure for objecting, then it also must clearly provide instructions on how to state an objection. The written notice must be provided to the prospective beneficiary prior to the Federally-funded social services being provided. For prospective beneficiaries who cannot read or understand the notice (e.g., due to lack of literacy, limited English proficiency (LEP), or disability), organizations must make reasonable efforts to provide translation or interpretation services, accessible alternative formats, or appropriate counseling, in accordance with Title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and implementing guidance. Additional guidance from individual agencies should be consulted to ensure that any notice complies with agency LEP policies.

Q4. When a beneficiary objects to the religious character of a Federally-funded service provider and requests an alternative, can the service provider discharge its referral obligation by notifying the beneficiary that it is not aware of any alternatives without having first engaged in affirmative efforts to identify alternatives?

A4. No. If the provider is not already aware of an alternative, the provider must undertake reasonable, good-faith efforts to identify an alternative. The affirmative efforts appropriate will depend on circumstances. Before concluding that no alternative provider is available, organizations are encouraged to contact the relevant Federal-funding agency to inquire whether the agency is aware of alternative providers.

We expect that it will be rare for Federally-funded organizations to find it impossible to identify an alternative for the objecting beneficiary, if the provider has exercised reasonable, good-faith efforts to identify alternatives. Another service provider that itself has a religious character, but to which the beneficiary has no objection, may be a reasonable alternative.

Q5. For cases in which services are provided in person, what is an organization's responsibility to identify appropriate alternative providers to which a referral can be made?

A5. In all cases in which services are provided in person, the organization must undertake efforts to identify any alternative provider available that is in reasonable geographic proximity to the referring organization. The definition of “reasonable geographic proximity” is not just a measure of distance but will depend on the circumstances, the services provided, and the transportation options available to the prospective beneficiary. Each Federal funding agency should provide guidance on what efforts must be undertaken to identify an alternative provider within “reasonable geographic proximity.”

Q6. In the case of a faith-based organization, must the referral to an alternative provider be to a secular or non-religious social service provider?

A6. No. The alternative provider need not be a secular provider. However, if the beneficiary desires a secular provider, then the referral should be made to a secular provider. In attempting to determine an appropriate alternative, a faith-based organization may ask a prospective beneficiary if he or she would prefer or not prefer another faith-based provider and may make a referral based on the prospective beneficiary’s stated preference. However, a faith-based organization may not steer a potential beneficiary to or away from other faith-based organizations because the faith-based organization itself favors or disfavors the religious character of those organizations.

Q7. Is the referring organization responsible for any additional costs that the beneficiary incurs as a consequence of being referred to an alternative provider?

A7. No. The referring organization is not under an obligation to subsidize transportation costs or other increased cost burdens that the prospective beneficiary incurs as a consequence of pursuing a referral to an alternative provider. However, to the extent that various alternative providers are available, referring organizations are encouraged to take into account the cost to the prospective beneficiary in determining which provider is most appropriate for referral.

Q8. What constitutes an appropriate and timely referral?

A8. *Recommended Answer (More specificity, less flexibility):* Referrals for emergency services generally should be made within one hour of notice of the prospective beneficiary’s objection. These services include emergency health, food, and shelter services. Referrals for other immediate needs, such as drug treatment counseling, should be made within 24 hours. Referrals for long-term services, such as marriage counseling, should be made within one week. Some of the considerations that should be made in determining the appropriateness of an alternative provider include: distance, accessible transportation options, cost, equivalency of the offered services to the services of the referring organization, and operational capacity. When services are offered by telephone, long distance fees should be considered as a potential cost and, when services are offered by internet, the prospective beneficiary’s internet access should be considered. In order to meet the specified time frames, the organization should keep a list or otherwise stay apprised of comparable service providers in the area.

In addition to the above recommended answer, the Working Group developed an alternative in the event that it is more applicable to an agency’s situation:

(Greater flexibility for organization): Whether a referral is appropriate and timely will depend on the circumstances of each situation. When the nature of the service is urgent, or easily identifiable alternative providers are known to operate in close proximity, a timely referral must be offered in a shorter period of time than when the nature of the service is not as urgent, and alternative providers are difficult to identify in reasonable geographic proximity. Some of the considerations that should be made in determining the appropriateness of an alternative provider include: distance, available transportation options, cost, and the availability of services comparable to the services offered by the referring organization. When services are

offered by telephone, long distance fees should be considered as a potential cost and, when services are offered by internet, the prospective beneficiary's internet access should be considered.

Q9. How does an organization that makes a referral comply with its obligation to inform the Federal funding agency?

A9. The relevant Federal funding agency will provide specific guidance regarding the content and timeliness of reporting on referrals made pursuant to the model language provided in chapter 3. At a minimum, the Federal agency will require that the organization report annually on the number of individuals raising objections. When the funding does not pass directly from the Federal agency to the organization, such as when Federal funds go first to a state or local government, the agency may specify whether the nonprofit must report directly to the Federal agency or instead whether the organization must report to the intermediary funding agency.

Q10. What obligation does a referring organization have to follow up on the beneficiary?

A10. At a minimum, an organization that refers an objecting beneficiary to an alternative service provider must have a process for determining whether the beneficiary has contacted the alternative provider. The Federal funding agency may prescribe additional requirements that must be met in order to satisfy follow-up obligations. Under no circumstances, however, may an organization violate applicable privacy laws and regulations in following up with beneficiaries. When a prospective beneficiary refuses to provide his or her name, the organization's obligation to follow up is satisfied by informing the prospective beneficiary that the organization will not be able to follow up on any referral for which it does not have a name. A prospective beneficiary may opt out of follow-up – which may be particularly important for victims of certain crimes such as domestic violence, dating violence, sexual assault, or stalking.

Q11. Do the obligations of this rule apply to sub-grantees (also called sub-recipients or subawardees)?

A11. Yes. Grantees should ensure that all sub-grantees are aware of the requirements of this rule. Sub-grantees should report any referrals to grantees who, in turn, will make such referrals known to the Federal agency. In situations where the funding passes directly from the Federal agency to the sub-grantee, the agency may specify whether the subgrantee must report directly to the Federal agency or to the intermediary funding entity. Regardless of how sub-recipients report referrals, recipients are responsible for the compliance of sub-recipients with Federal civil rights laws.

Please note: Throughout this appendix, the term “prospective beneficiary” includes a current beneficiary.

Appendix D

Protections for Beneficiaries

Sample Referral Form – for Organizations Providing Emergency Services

Name of Organization

Name of Program

Contact information for Program Staff (name, phone number, and email, if appropriate)

Because this program is funded in whole or in part by the U. S. Government, we are required to let you know that you have the right to object to receiving social services from us because of our organization’s religious character. If you object, we will make reasonable efforts to refer you to another service provider. Afterwards, if you consent below, we will follow up with you or the organization to which you were referred to determine whether you contacted them.

1. I want to be referred to another service provider.
 I do not want to be referred to another service provider.

2. If you wish to be referred to another service provider, please check one:

 Please follow up with me or the other service provider.
 Name:
 Best way to reach me (phone/address/email):
 Please do not follow up.

FOR STAFF USE ONLY

1. Date of Objection: ____/____/____
2. Referral CHECK ONE Individual was referred to: [Name of alternative service provider]
 Individual left without a referral
 No alternative service provider is available – summarize below what efforts
 you made to identify an alternative:

3. Follow-up date: ____/____/____
 CHECK ONE Individual contacted alternative provider
 Individual did not contact alternative provider
4. Staff name and initials:

Training and Monitoring

Grant and Contract Reviewer Training Guide

Persons who review applications for Federally-funded grants and contracts should be aware that faith-based organizations must be considered for awards in Federally-funded projects to which they are otherwise eligible and should be neither favored nor disfavored on the basis of religion or religious belief. However, 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. 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 funds for “explicitly religious activities”? For example, does the applicant propose to integrate religious worship, religious instruction, or proselytization into the program?
2. Does the applicant propose to discriminate against program beneficiaries or applicants based on religion or religious belief?
3. Are advertising, outreach, or recruitment efforts for the Federally-supported program targeted exclusively to religious groups or exclusively to non-religious groups? For example, does the application state that the Federally-funded 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?
4. After receiving the award, does the applicant organization intend to select new project partners based on religious considerations by, for example, considering only organizations that are religious or share a similar faith affiliation or only organizations that are non-religious?

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 13559, as follows:

1. Faith-based organizations still may conduct explicitly religious activities and programs with private funds outside of the Federally-funded program, provided that the explicitly religious activities are privately funded, separate in time or location, and voluntary for participants in Federally funded programs.
2. Faith-based organizations 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 does or does not comply with these principles, then we ask that you err on the side of noting the concern. Federal staff will then review the matter prior to awarding.

Appendix F – Training and Monitoring: Model Presentation Materials

Appendix F(1) – Model Presentation

(Conference or Workshop Title)

Fundamental Principles and Policies
for Partnerships with Faith-Based
and Other Neighborhood Organizations

(Presenter's Name)
(Title)
(Office)

Fundamental Principles

- Executive Order 13559 (November 17, 2010) applies to most Federal agencies with social service programs.
- This Executive Order provides principles that apply uniformly across identified Federal agencies when agencies formulate and implement policies.

Fundamental Principles

- No organization in receipt of Federal funds may discriminate on the basis of religion or religious belief when awarding or administering those funds under social service programs.

Fundamental Principles

- Organizations that engage in "explicitly religious activities" must perform those activities outside of directly funded programs.
- This prohibition applies to both awardees and sub-awardees receiving Federal funds.

Fundamental Principles

- This prohibition does not apply to programs that are chosen by a beneficiary who pays for the cost through a government-funded voucher, certificate or other means of payment, known as "indirect" funding.

Fundamental Principles

- Directly-funded organizations may conduct explicitly religious activities with private funds outside of their Federally-funded program, provided that those activities are:
 - Separate in time or location
 - Voluntary for program participants
 - Privately funded

Fundamental Principles

- Award recipients must allocate the costs of items that are intended to benefit both the Federally-funded program and other work.

Fundamental Principles

- Faith-based organizations are protected by principles that maintain their religious identity, character, and symbols.

Fundamental Principles

- No Federally funded organization may discriminate against current or prospective program beneficiaries 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.

Fundamental Principles

- If a beneficiary or prospective beneficiary in the Federally-funded program objects to the religious character of the organization that provides those services, then the organization must refer the individual to an alternative provider within a reasonable time.

Fundamental Principles

- Please refer to the following:
 - Any rules implementing Executive Order 13559 that have been issued by the awarding agency
 - Legal Safeguards: Prohibited Activities and Protections for Religious Identity
 - Legal Safeguards: Separate Religious Programs
 - Q&As Regarding Protections for Beneficiaries
- Please consult your project officer, contract officer, or other responsible Federal official with any questions.

Appendix F(2)

Model Presentation Presenter's Guide

Persons who conduct trainings on Executive Order 13279, as amended by Executive Order 13559, using the model presentation, “Fundamental Principles and Policies for Partnerships with Faith-Based and Other Neighborhood Organizations” are encouraged to elaborate on the principles therein by integrating additional detail found in government-wide guidance. The following is a list of those slides where which additional detail from government-wide guidance may be integrated into the presentation:

Slide 4: *See* Chapter 1 of this report (providing additional detail as to the definition of “explicitly religious activity” and the scope of that provision).

Slide 5: *See* Chapter 2 (explaining the distinction between “direct” and “indirect” funding).

Slide 6: *See* Chapter 1 (providing best practices to ensure a supportable distinction between religious and secular programs).

Slide 7: *See* Chapter 1 (explaining the cost allocation principles with examples).

Slide 8: *See* Chapter 1 (identifying the specific protections for faith-based organizations’ identity).

Slide 9: *See* Chapter 1, under “Eligibility, Outreach and Recruitment” (identifying best practices to ensure that organizations do not discriminate against beneficiaries and prospective beneficiaries on the basis of religion).

Slide 10: *See* Chapter 3 and Appendix C (Protections for Beneficiaries) for guidance implementing the alternative provider requirement.

Training and Monitoring

Fundamental Principles and Policies

Summary of Principles from E.O. 13559

Faith-based organizations are to be treated the same as non-faith-based organizations in Federally-funded programs for which they are otherwise eligible.

- The government and any intermediaries may not refuse to review an award application based solely on the organization's religious character or affiliation or lack thereof.

The government may not directly fund explicitly religious activities.

- Do not use Federal funds for religious worship, religious instruction, or proselytizing.
- Do not use Federal funds for religious materials or endorse or promote religion.

Faith-based organizations may still conduct religious activities with private funds outside of the Federally-funded programs.

- Activities must be separate in time or location and be voluntary for program participants.
- Activities must be privately funded.
- Federal funds 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 retain authority over their internal governance.

Organizations that are awarded Federal funds may not discriminate against program beneficiaries based on religion or religious belief or non-belief.

- This non-discrimination requirement applies to any services funded in whole or in part with Federal funds.

Faith-based organizations must refer, to an alternative provider, any beneficiary or prospective beneficiary in the Federally-funded program who objects to the organization's religious character.

- The referral must be made reasonably promptly and directed to an alternative that is within a reasonable geographic proximity.

Training and Monitoring

Using Government Funds in Compliance with Constitutional Principles

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 Federal funds must serve all eligible participants regardless of those persons' religious beliefs.

True or False

2. Recipients of Federal funds, including State and local governments, cannot discriminate in the provision of program services on the basis of religion.

True or False

3. Federally-funded faith-based organizations can require that beneficiaries profess a certain faith or participate in religious activities in order to receive the Federally-funded services provided.

True or False

4. Grantees and their project partners that administer government-funded 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 is awarding sub-grants can provide a preference for faith-based charities in its selection process.

True or False

6. The principles in Executive Order 13559 are important for both faith-based and other neighborhood organizations to know when administering their Federally-supported programs.

True or False

7. There is no money set aside by the Federal government for faith-based organizations to receive a designated portion of awards in Federal social services.

True or False

8. Federal funds can 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 Federal 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 church receiving funds from the Federal Government 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 government funded program.

True or False

11. A requirement for faith-based organizations using Federal funds is to hold explicitly religious activities at a different _____ or _____ than government-funded services. (Fill in the blank.)

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

	<i>Explicitly religious</i>	<i>Allowable Expense for Federal Funds</i>
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		
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		

13. If a charity receives government funding for providing a public service, then the government requires that the charity abandon its religious character.

True or False

14. Facility space used to provide a Federal service may not ever be used for religious purposes and must not display any religious symbols.

True or False

15. A faith-based organization may maintain its religious name and religious references in chartering documents once it receives Federal funds.

True or False

16. A church that operates a Federally-funded social service program 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 funded program.

True or False

Using Government Funds in Compliance with Constitutional Principles
Exercise Answer Key *

*These answers may vary depending on the facts in any particular instance.

1. True
2. True
3. False
4. “religion”
5. False
6. True
7. True
8. False
9. True
10. False
11. first blank: “time” / second blank: “location”
12. Check the appropriate column

	<i>Explicitly religious</i>	<i>Allowable Expense for Federal Funds</i>
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		*
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		*

13. False
14. False
15. True
16. True