



Promoting Equal Treatment:

A Guide For State & Local Compliance with Federal Regulations

Why Equal Treatment?

President Bush came into office vowing to launch a *“determined attack on need” with the help of America’s “armies of compassion”*

BUT

a Federal audit confirmed that the Federal government:

- *Was often suspicious of faith-based organizations (FBOs);*
- *Excluded FBOs altogether from certain Federal programs;*
- *Often conditioned funding on an FBO’s willingness to accept excessive restrictions on its religious activities; and*
- *Showed an institutional bias for prior grantees*

Precursor: Charitable Choice

- ✓ Applies to select few domestic programs;
- ✓ Prohibits government from excluding faith-based providers from competing on an equal basis for government funds based on faith;
- ✓ Prohibits discrimination for or against faith-based groups;
- ✓ Obligates government to protect the religious character and independence of groups that receive government funds;
- ✓ Protects the religious liberty of beneficiaries by expanding their service options and requiring alternatives if anyone objects to a faith-based program (regardless of whether funding is direct or indirect);
- ✓ Prohibits direct funding of inherently religious activities like worship, religious instruction, or proselytization;
- ✓ Prohibits discrimination against beneficiaries on the basis of religion; and
- ✓ Preserves Title VII religious hiring liberty.

The Level Playing Field

Federal, Host Government, State & Local Neutrality

- No discrimination for or against a provider based on religious character, affiliation, or lack thereof

Faith-based providers eligible on the same basis as other organizations

- No quotas or set-asides
- No automatic assumption of effectiveness

The “Pervasively Sectarian” standard is no more

- No exclusion of faith-based providers simply because they are perceived as “too religious”

“What can you do?” *NOT* “Who are you?”

- Focus on effectiveness and results



Applicability

Who is bound by the Equal Treatment Regulations?

- Federal officials
- Local government officials
- Intermediary organizations

When are they bound?

Whenever they engage in the purchase of services from organizations with U.S. government funding (including local government ministries)



Applicability

What types of funds are covered?

- Discretionary grant funds
- Required matching funds, regardless of whether commingled with Federal funds
- State, local or private supplemental funds when voluntarily commingled with Federal funds




Covered Financial Relationships

DIRECT FUNDING

- Contracts
- Grants
- Subcontracts
- Subgrants
- Cooperative Agreements

INDIRECT FUNDING

- Vouchers
- Certificates
- Coupons



Provider Obligations

No direct funds for “inherently religious activities” like Prayer, Worship, Religious Instruction, or Evangelization

BUT

Such activities are permissible if:

- *Privately-funded*
- *Separate in time or location from gov’t program*
- *Voluntary for program beneficiaries*

AND

Fiscal & Programmatic Accountability for Grantees

- All providers bound by same accounting standards
- Compliance with program requirements a must



Rights of Faith-Based Providers

➤ ***Religious Independence***

- ✓ Independent from government
- ✓ *NO* conditioning funds on forfeiting religious identity
- ✓ *NO* exclusion of FBOs because they are motivated by faith to provide social services
- ✓ Faith-based providers may:
 - Retain their religious names and mission statements
 - Choose board members on a religious basis
 - Retain control over internal governance
 - Maintain religious art, icons, or scriptures in their facilities while providing government-funded programs



Protections for Beneficiaries

- *Where US Gov't funds are concerned . . .*
 - *No discrimination based on religion, religious belief or lack thereof*
 - *No mandatory participation in inherently religious activities*

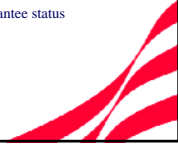
VOLUNTARINESS IS KEY



In-Country Compliance

Affirmative Steps You Can Take to Ensure Compliance

- Educate staff on the principles of equal treatment
- Undertake a formal review of grant and procurement policies at in house and at various ministries funded by your program
- Revise and clarify announcements, regulations, and compliance forms governing programs
- Rotate members of peer reviewer panels more frequently
- Avoid defining "community organizations" so as to exclude faith-based organizations
- Base application point-preferences on results, not repeat grantee status
- Provide technical assistance to novice grantees
- Take steps to foster relationships with all types of civic, charitable, faith-based, and community organizations



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