

FAITH-BASED & COMMUNITY INITIATIVES AT USDA

FAQs – Rural Development Programs

What is the Faith-Based & Community Initiative?

One of President Bush's first official acts as President was to create the White House Office of Faith-Based and Community Initiatives. The Office was tasked at its inception with leading a "determined attack on need" by strengthening and expanding the role of faith-based and other community organizations in addressing the nation's social problems. The guiding principle behind President Bush's Faith-Based and Community Initiative is that all social service providers, including faith-based charities, should be able to compete on an equal footing for public dollars to provide public services.

What is USDA's involvement with the Faith-Based & Community Initiative?

In December 2002, President Bush announced the addition of the U.S. Department of Agriculture (USDA) to his Faith-Based and Community Initiative. On January 28, 2003, the Secretary of Agriculture appointed a Special Assistant to the Secretary and Director of Faith-Based and Community Initiatives (FBCI) at USDA. Since that time, the Director and her staff have been working closely with appropriate USDA agencies, particularly the Food and Nutrition Service, the Foreign Agricultural Service, and Rural Development agencies, to enhance the participation of faith-based and community organizations in key programs that deliver food, housing, and other services to low-income families and individuals in the United States and abroad.

Hasn't USDA been working with faith-based and community organizations for many years? How is this different?

It is true that USDA has long recognized the value that faith-based and community organizations bring to the table in delivering social services to those in need. Reaching out to and partnering with community organizations, including ones which are faith-based, has been the Rural Development mission area's way of doing business for many years. The President's Initiative calls on USDA to build upon and expand successful partnerships of the past. It demonstrates a renewed commitment to integrating faith-based and other community organizations in agency programs and to allowing faith-based organizations to participate in Federal programs without impairing their independence, autonomy, expression, or religious character. It also asks us to explore new, innovative approaches in providing services involving organizations that may have previously considered themselves ineligible or were simply unaware of USDA's many programs. At the end of the day, the President's Initiative dovetails with Rural Development's mission and has the same ultimate goal: to see more people served in the most efficient and effective manner possible.

Does this mean that faith-based organizations get "special treatment"?

No. The Initiative does not give preference to faith-based organizations. Faith-based organizations that receive Federal funding are held to the same standards as all other providers of services. For example, they must comply with the accounting requirements that apply to other organizations, and they must demonstrate that their organization serves the purposes of the program. The Initiative simply recognizes that faith-based organizations, along with other community organizations, have a role to play in the provision of Federally-funded social services, and it clarifies the principles that apply when a faith-based organization receives government funds.

Is there any money specifically set aside for faith-based organizations?

No. The Federal government does not set aside funds specifically for faith-based organizations. Some small programs like the Compassion Capital Fund (administered by the Department of Health & Human Services) are designed to help faith-based and other community groups with the challenges they face in providing services to the poor. However, in awarding grants and other direct assistance, the Federal government does not ask, “Does your organization believe in God?” It asks, “Does your program work? Does it meet the specific requirements of the grant? Is it turning people’s lives around? Is it accountable for the money it receives?”

What is Executive Order 13279?

This Presidential directive, signed in December 2002, is entitled “Equal Protection of the Laws for Faith-Based and Community Organizations.” Among other things, this Executive Order clarifies the rights and responsibilities of faith-based organizations that partner with the Federal government. It required all Departments and Agencies to ensure their policies were aligned with the principles outlined in the Executive Order. USDA has issued a final regulation in accordance with this Executive Order, as discussed below.

What does USDA’s final rule on Equal Opportunity for Religious Organizations mean for Rural Development programs?

This regulation, issued on July 9, 2004, clarifies both the rights and the responsibilities of faith-based organizations that receive USDA grants and other forms of direct assistance. It specifies that faith-based organizations may not be excluded from the competition for USDA grants simply because they are religious. Neither the Federal government nor a State or local government receiving USDA assistance may discriminate for or against a religious organization on the basis of the organization’s religious character or affiliation. The regulation also provides that faith-based organizations that receive Federal grants may participate without sacrificing their religious character and autonomy so that they can continue to carry out their missions consistent with their beliefs. For example, they do not need to change their name, or remove religious art or symbols from their facilities. It is unlikely they would have to change their chartering documents.

The regulation also imposes certain restrictions on an organization's use of Federal funds for religious activities. The regulation specifies that organizations that receive direct Federal funds must serve all eligible participants, regardless of those persons' religious beliefs. It also prohibits organizations from using direct Federal funds to support any inherently religious activities (such as worship, religious instruction, or proselytization).

You can find the text of the rule at <http://www.usda.gov/fbc/finalrule.pdf> and see all the "dos" and "don'ts" enumerated in the rule.

Does this "Equal Opportunity" rule apply to all Rural Development grants and loans?

The general rule applies to Rural Development grants only, not to direct loans or guaranteed loans.

What are the rules on funding religious activity with Federal money?

The United States Supreme Court has said that direct government assistance may not be used to support "inherently religious" activities. This means a faith-based organization may not use any direct Federal assistance to fund worship, religious instruction or proselytization. Instead, organizations may use government money only to support the non-religious social services that they provide.

This does not mean the organization may not have religious activities; it simply means an organization may not use taxpayer dollars to fund inherently religious activities. If an organization receives direct government funds from USDA, any inherently religious activities must be privately funded, separate from the government-funded services, and voluntary. Therefore, faith-based organizations that receive direct governmental funds should take steps to separate, in time or location, their inherently religious activities from the government-funded services that they offer. Additionally, although an organization may invite program beneficiaries to join in its inherently religious activities, it must be clear to the beneficiaries that participation in such religious activity is voluntary and will have no bearing on receipt of the government-funded social service.

All organizations should carefully account for their use of government money. Some faith-based organizations even choose to set up separate charitable organizations (such as a "501(c)(3) corporation") to assist in keeping government-funded activities separate from inherently religious activities.

The regulation says that if both eligible and ineligible activities are conducted within a facility, USDA funds may only be used for the cost of those portions of the building attributable to eligible activities. How does an organization allocate costs on the basis of the use of a facility?

The final rule introduced two significant changes to the rules governing the use of USDA grant funds for the acquisition and improvement of physical property. First, it eliminated the requirement that religious grantees and subrecipients establish a separate, secular nonprofit organization to receive funding for the acquisition, construction, reconstruction, or rehabilitation of buildings. Second, it permits funding of acquisition and improvement of physical property for eligible and ineligible activities on a cost allocation basis. Organizations may now receive USDA grant funding for structures in which both eligible and ineligible, including inherently religious, activities occur so long as the costs are allocated according to the extent of the eligible activities. This allowance for cost allocation provides greater opportunities for all organizations who use their facilities for a variety of eligible and ineligible activities.

Funds awarded for social services activities may be allocated according to space or time. Allocating funds by space is relevant in circumstances in which individual rooms or other discrete areas within a larger structure are used solely for ineligible activities. Allocating funds by time is relevant when individual rooms or structures are used for both eligible and ineligible activities.

When allocating funds according to time, the proportion of total cost borne by USDA funding shall be no greater than the proportion of time the space is used for eligible activities. For example, the total cost to rehabilitate two rooms is \$10,000 and the rooms are used for eligible activities 50% of the time (e.g., total hours used per week is 40, and 20 hours each week is for eligible activities). In this example, no more than \$5,000 of USDA funds may be used for the proposed rehabilitation.

When allocating funds according to space, whether for acquisition, rehabilitation, or social service activities, important measures such as square footage and numbers of rooms should be used in the calculation. The cost of space used for eligible activities should be subtracted from the total cost. Improvements that benefit the entire building, such as a boiler or roof repairs, should be allocated accordingly.

The final rule clarifies that religious congregations may not receive USDA funds for improvements to sanctuaries, chapels, or any other room that the congregation uses as its principal place of worship, even if the room is used for eligible activities during non-worship times.

Will the way in which a faith-based grant or loan recipient hires employees change if they receive Federal funding?

Rural Development grant programs do not place nondiscrimination hiring requirements on recipients.

If an organization receives a Federal grant, may it choose not to provide services to some people on the basis of religion?

No. If an organization takes a Federal grant it may not religiously discriminate against a person seeking help who is eligible for the service. For example, if a religious organization receives public money to run an emergency food distribution program, it may not serve only persons of its faith and turn away others. In addition, and as discussed above, it may not require those it serves to profess a certain faith or participate in religious activities in order to receive the service it provides under the Federal government funding.

What will happen if an organization violates any of these rules?

If an organization violates the requirements specified in the grant or otherwise improperly uses the funds it receives, it may be subject to legal action. Among other things, it may be debarred, lose its grant funds, be required to repay the funds it received (plus with real estate any pro rata appreciation), and be required to pay any damages that might be awarded through court action. If an organization uses its funds fraudulently, it could be subject to criminal prosecution.

Does a religious organization have to form a special nonprofit organization in order to receive Federal funding?

Religious organizations do not have to form a special nonprofit organization in order to receive Rural Development grants. Across the government, the general rule is no they do not. There is no general Federal requirement that an organization incorporate or operate as a nonprofit or obtain tax-exempt status under section 501(c)(3) of the Internal Revenue Code in order to receive Federal funds. However, some Federal programs may impose such a requirement.

This is not to say that some faith-based organization might not decide that it is in their interest to establish a separate nonprofit organization to use the government funds it receives. Taking this step can make it easier for a faith-based organization to keep track of the public funds that it receives and spends. It will also be easier for the government to monitor the group's use of grant funds without intruding on the group's internal affairs, in the event that an audit is conducted.

If an organization has a religious name and its chartering documents contain religious references, is it still eligible to receive Federal funding?

Yes. A faith-based or religious organization does not need to change its identity – including its name– in order to qualify for a Federal grant. Nor does it need to remove religious art, icons, scripture, or other religious symbols from its property or its publications – although all of these items must have been purchased with private funds.

If an organization has a requirement that the members of its governing board be members of the same faith, is it still eligible to receive Federal funding?

In general, yes. A faith-based or religious organization does not need to change the way it selects members for its governing board in order to qualify for a Federal grant. However, there may be some grant programs, such as Rural Development grant programs, that require that an organization's board meet some general requirements, several of which are mentioned below. As long as the composition of a governing board complies with Federal statutory requirements, a faith-based organization may continue to require that all board members be of a certain faith.

What if a non-profit board is composed of members from a particular denomination only? Would it still qualify for a CF grant or loan?

The regulations covering Community Facilities grants and loans require that a nonprofit organization demonstrate significant ties to the local community in order to ensure that the facility financed will carry out a public purpose. The fact that all board members of a particular faith-based organization may be required to be of the same faith would not preclude an organization from meeting this requirement. For examples of how the community ties requirement can be met, see the Department's February 2003 Administrative Notice entitled "Guidance for Determining Eligibility of Faith-Based and Community Organizations for Community Facilities Financing," available at <http://www.usda.gov/fbc/rdguidance.pdf>.

If members of the organization must all be of one faith, how does that organization meet the requirement in the February 23, 2004 Administrative Notice (the AN) that "membership is open to all adults in the local rural community?"

"Membership is open to all adults in the local rural community" is referencing the pool of potential/eligible member. The requirement means that all adults in the community must be able to become members, if they so choose. For example, an organization that only allowed women to become members would not satisfy the membership open to all requirement.

Some organization's governing documents state that an outside entity (such as an entity within a church hierarchy) has the "ultimate" decision making power. Would such an organization be disqualified under the AN requirement that the "members have ultimate control of the proposed community facility"?

No. The Administrative Notice simply requires that the day-to-day operations of the facility be under the control of the organization. Provided that the organization that receives the grant has control over most day-to-day operations, the organization is deemed to have met the "ultimate control" requirement.