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**FISCAL YEAR 2006
CHILD AND ADULT CARE FOOD PROGRAM
OPERATIONAL MEMO #4**

TO: Child and Adult Care Food Program Institutions

FROM: Mary Ann Chartrand, Director
Grants Coordination and School Support

DATE: October 31, 2005

SUBJECT: General Rule on the Faith-Based and Community Initiatives

A guiding principle of the Faith-Based and Community Initiatives is that there should be a level playing field for all organizations to compete for federal assistance.

This memo is intended to notify you of the publication of the USDA General Rule. First, the regulation ensures that USDA programs and activities are open to all qualified organizations, regardless of their religious character. Second, the regulation establishes clearly the proper uses to which USDA financial assistance may be put consistent with Constitutional parameters. Third, it establishes conditions for receipt of financial assistance.

Attached is a list of frequently asked questions that may be of use to you.

If you have any questions, please call the CACFP at (517) 373-7391.

Attachment

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FAITH-BASED & COMMUNITY INITIATIVES AT USDA

FAQs –Food and Nutrition Service 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 Food and Nutrition Service'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 the Food and Nutrition Service'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 funds 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 Food and Nutrition Service 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 chartering documents, or remove religious art or symbols from their facilities.

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/fbci/finalrule.pdf> and see all the "do's" and "don'ts" enumerated in the rule.

Does this "Equal Opportunity" rule apply to all Food and Nutrition Service programs?

Yes.

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 so-called "501(c)(3) corporation") to assist in keeping government-funded activities separate from inherently religious activities.

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

No. Food and Nutrition Service programs do not place non-discrimination hiring requirements on recipients.

If a faith-based organization receives a Federal grant to provide public assistance, may it choose not to provide that Federal assistance to some people on the basis of religion?

No. If a faith-based organization receives a Federal grant to provide public assistance, it is not allowed in providing that program assistance, to discriminate against people on the basis of religion or religious belief. 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 provided for the Federal government.

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 administrative or legal action. Among other things, it may lose its grant funds, be required to repay the funds it received, 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 participate in Food and Nutrition Service programs.

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 or chartering documents – 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?

Yes. This regulation specifically states that organizations may select their board members on a religious basis and still participate in Food and Nutrition Service programs.