

Applying for and Administering ED Grants:

A Guide to the Rights and
Responsibilities of Faith-based
Organizations and Their Beneficiaries



Office of the Deputy Secretary
Risk Management Service

Agenda

- ▶ Outline the rights and responsibilities of faith-based organizations administering ED grant programs
- ▶ Clarify the rights of individual beneficiaries who would be served by these programs
- ▶ Provide tips for effective grants administration to ensure successful project outcomes and proper fiscal oversight
- ▶ Review ED resources to help inform faith-based grant applicants, grantees and subgrantees

Background

- ▶ Executive Order (E.O.) 13559, Fundamental Principles and Policymaking Criteria for Partnerships with Faith-based and Other Neighborhood Organizations was issued on November 17, 2010
- ▶ Amends E.O. 13279, Equal Protection of the Laws for Faith-Based and Community Organizations issued on December 12, 2003
- ▶ Describes the Federal government's obligation to monitor and enforce constitutional, statutory, and regulatory requirements relating to the use of Federal financial assistance by faith-based organizations

Getting Started...

- ▶ All new grant applicants should read [Grantmaking at ED](#)
- ▶ Identify grant programs that are the “best fit” for your organization and submit applications
- ▶ Review the [Faith-based and Other Neighborhood Organizations](#) page for applicants and grantees
- ▶ Know your rights and responsibilities

Applicant/Grantee ED Site

- ▶ Links to the executive orders and regulations
- ▶ Guidance documents and FAQs
- ▶ Access to [ED's Center for Faith-based and Neighborhood Partnerships](#)
- ▶ Information added as necessary to:
 - <http://www2.ed.gov/policy/fund/reg/fbci-reg.html>

Tools of the Trade

The following are key regulatory guidance documents to help you apply for and administer ED grants:

- ▶ Program specific regulations
- ▶ Education General Administrative Regulations, 34 CFR (EDGAR)
- ▶ The Uniform Guidance, 2 CFR Part 200
 - 2 CFR 200 Subpart D Post Award Requirements
 - 2 CFR 200 Subpart E Cost Principles
- ▶ 2 CFR Part 3474

2 CFR Resources

- ▶ 2 CFR Part 200, Uniform Guidance
 - Consolidation of various grant-related OMB Circulars
 - Contains general grants administrative regulations, Cost principles, and audit requirements for ED grantees and subgrantees
- ▶ See 2 CFR Part 3474.15 Contracting with faith-based organizations
- ▶ Visit ED's Uniform Guidance Resource page for tutorials and topic specific trainings

Amended EDGAR Regulations

- ▶ Part 75—Direct Grant Programs
 - §75.52 (Amended) Eligibility.
 - §75.712 (New) Beneficiary Protections: Written Notice.
 - §75.713 (New) Beneficiary Protection: Referral Requirements.
 - §75.714 (New) Subgrants, contracts, and other agreements with faith-based organizations.
 - Appendix A to Part 75—Form of Required Notice to Beneficiaries (New).

Amended EDGAR Regulations

- ▶ Part 76—State Administered Programs
 - §76.52 (Amended) Eligibility of faith-based organizations for a subgrant and nondiscrimination against those organizations.
 - §76.712 (New) Beneficiary Protections: Written Notice.
 - §76.713 (New) Beneficiary Protection: Referral Requirements.
 - §76.714 (New) Subgrants, contracts, and other agreements with faith-based organizations.

New Contract Regulation

- ▶ New 2 CFR 3474.15 establishes requirements for contracts with faith-based organizations that provide program services under a grant or subgrant.
- ▶ Same requirements must be included in contracts as regulations require of grantees and subgrantees.

New Key Terms

Two new terms are defined in the regulations

- ▶ Direct Federal Financial Assistance
- ▶ Indirect Federal Financial Assistance
- ▶ Defined in EDGAR 75.52 and 76.52
- ▶ These definitions do not change the extent to which an organization is considered a “recipient” of “Federal Financial Assistance”
- ▶ See 34 CFR parts 100, 104, 106, and 110

Direct Federal Financial Assistance

- ▶ Means that ED, a grantee, or a subgrantee selects a provider and either purchases goods or services (i.e. a contract) or awards a grant or subgrant to carry out services under an ED program
- ▶ Federal financial assistance will be treated as direct unless it meets the definition of indirect

Direct FFA Programs

Direct Federal financial assistance includes both discretionary programs and the 21st CCLC State-administered program

- ▶ Discretionary grants covered unless –
 - The grant is for research (no “beneficiaries”); or
 - The grant is made under DC School Choice statute
- ▶ The 21st Century Community Learning Centers program is covered because States make competitive subgrants to nonprofit organizations, potentially including faith-based orgs

Indirect Federal Financial Assistance

- ▶ Means the choice of a service provider under an ED program 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
- ▶ Beneficiary is an individual that benefits from the program such as a child or adult learner receiving academic tutoring or enrichment activities, vocational rehabilitation, or job placement skills

Equal Access & Eligibility

- ▶ A faith-based organization is eligible to apply for and to receive a grant under a program on the same basis as any eligible organization
- ▶ ED and pass-through entities may not discriminate for or against an organization on the basis of its religious character or affiliation
- ▶ ED and pass-through entities must ensure all grant awarding decisions are based on merit and free from actual or perceived political interference, not on the basis of religion or religious belief
 - See EDGAR Part 75.52 Eligibility(a) and (b)
 - See EDGAR Part 76.52 Eligibility (a) and (b)

Maintaining Religious Identity

A Faith-based organization that applies for and receives Federal financial assistance may retain its religious identity

- ▶ Maintain religious terms in its name
- ▶ Continue carrying out its mission including the definition, development, practice, and expression of its religious beliefs

Maintaining Religious Identity

- ▶ Use its facilities to provide project services without removing or altering religious
 - art,
 - icons,
 - scriptures or other symbols
- ▶ Select its board members on religious grounds
- ▶ Include religious references in mission statement and other governing documents

Separate Time and or Location

- ▶ Grantees and subgrantees (and contractors that provide program services) that engage in explicitly religious activities, such as religious worship, instruction, or proselytization, must offer those activities separately in time or location from any programs or services supported by a grant or subgrant from ED

Voluntary Participation

- ▶ Attendance or participation in any such explicitly religious activities by beneficiaries of the programs and services supported by the grant must be voluntary

Grantee & Subgrantee Contracts

- ▶ If grantee or subgrantee contracts with a faith-based organization to provide program services to beneficiaries, the contract must include conditions, imposing certain requirements on the contractor:
 - No program funds used for religious worship, instruction, or proselytization or use equipment for those purposes
 - Must notify beneficiaries of rights, make reasonable referral efforts, maintain records of referrals, and promptly notify of referral failure
 - May not discriminate against a beneficiary or prospective beneficiary in the provision of program goods or services on the basis of religion or religious belief, a refusal to hold a religious belief, or refusal to attend or participate in a religious practice.

See 2 CFR 3474.15(c)(1), (d)(1), & (f)

Administering the Grant

- ▶ ED grantees should review the Grant Award Notification (GAN) to review the specific terms and conditions of the award
- ▶ A State agency that receives a grant under the 21stCCLC must notify FBO subgrantees that of the new requirements that apply to their awards (preferably in a subgrant condition)
- ▶ ED subgrantees should review the subgrant information from the grantee—usually a State Education Agency (SEA)
- ▶ All grantees and subgrantees must be monitored for programmatic success and fiscal compliance with all applicable laws, regulations and award terms and conditions
- ▶ FBOs contracted to provide program services to beneficiaries must also be monitored for compliance

Grant Attachments

- ▶ All applicants awarded discretionary grants will receive a standard clause in their Grant Award Notification (GAN)
 - Does not apply to DC School Choice Grant (indirect assistance)
- ▶ Attachment must be included in all new awards and NCCs (except grant under DC School Choice statute)
- ▶ Grants under 21st Century Community Learning Centers program also include a standard clause
- ▶ Standard clause gives notice of new requirements

Discretionary Grant Clause

Unless this grant solely funds research, you must comply with new regulations regarding awards to faith-based organizations (FBOs) that provide beneficiary services under this grant or under a contract you award to provide beneficiary services under this grant. These new regulations clarify the rights of FBOs and impose certain duties on FBOs regarding the referral of beneficiaries they serve. See 34 CFR 75.52, 75.712–75.714, appendix A to part 75, and 2 CFR 3474.15. The Department has established a web page that provides guidance on the new regulations, including FAQs and other implementation tools, which is available at <http://www2.ed.gov/policy/fund/reg/fbci-reg.html>. If you have any questions about these regulations, please contact the program officer identified in Block 3 of this GAN.

21st Century Clause

You must comply with new regulations regarding awards to faith-based organizations (FBOs) that provide beneficiary services under programs funded by the Department. These new regulations clarify the rights of FBOs and impose certain duties on FBOs regarding the referral of beneficiaries they serve. See 34 CFR 76.52, 76.712–75.714, appendix A to part 75 (applicable to State-administered programs), and 2 CFR 3474.15. The Department has established a web page that provides guidance on the new regulations, including FAQs and other implementation tools, which is available at <http://www2.ed.gov/policy/fund/reg/fbci-reg.html>. If you have any questions about these regulations, please contact the program officer identified in Block 3 of this GAN.

Requirements for 21st CCLC Grants

- 21st century GANs will include notice to SEAs of the regulatory amendments in EDGAR and ensure they incorporate the requirement throughout their respective competitive subgrant awarding process
- SEAs are charged with monitoring faith-based subgrantees for compliance with these regulations
- Subgrantees are charged with monitoring faith-based contractors that provide program services to beneficiaries

Implementing the Grant

- ▶ Grantees and subgrantees must implement the Federally funded project in a secular, neutral and non-ideological manner
- ▶ Offer the services of the Federally funded project in a separate time and or location from the explicitly religious activities
- ▶ Must not use religious materials when conducting the Federally funded project
 - Example: Cannot use Sunday School guides as tools to promote literacy for children or adult learners

Unallowable Expenditures

§75.532 Use of funds for religion prohibited.

- ▶ (a) No grantee may use its grant to pay for any of the following:
 - ▶ (1) Religious worship, instruction, or proselytization.
 - ▶ (2) Equipment or supplies to be used for any of the activities specified in paragraph (a)(1) of this section.

See 2 CFR Part 200 Subpart E for a listing of allowable items of cost

Administrative Responsibilities

- ▶ Grantees and subgrantees have responsibilities in implementing their projects
 - Implement the project as outlined in the approved application
 - Adhere to all laws and regulations pertaining to the project
 - Submit accurate and timely programmatic and financial reports as required
 - Complete necessary audits
 - Maintain all project related records
 - Protect the well being of the beneficiaries and inform them of their rights

Informing Beneficiaries

- ▶ A faith-based organization that receives a grant, subgrant, or contract to provide program services under an ED grant program must provide prospective beneficiaries with a written notice of their rights and protections
 - Prior to the time they enroll in or receive services from the organization or
 - When not practical, to provide written notice at the earliest available opportunity

- ▶ See §§75.712–75.714, 76.712–76.714
- ▶ See Appendix A to Part 75

Beneficiary Rights

Faith-based organizations who receive a grant, subgrant or contract may not:

- ▶ Discriminate against a beneficiary or prospective beneficiary on the basis of religion or religious belief, a refusal to hold a religious belief, or refusal to attend or participate in a religious practice
- ▶ Require a beneficiary to attend or participate in any explicitly religious activities that are offered by the organization, and any participation by the beneficiaries in such activities must be purely voluntary;

Beneficiary Rights (ctd)

- ▶ A beneficiary or prospective beneficiary may report a violation of these protections to, or file a written complaint regarding a denial of services or benefits with, the subgrantee, grantee, or ED that made the award under which the violation or denial occurred

Beneficiary Objections

- ▶ If a beneficiary or prospective beneficiary of a objects to the religious character of a faith-based organization, then the organization must promptly undertake reasonable efforts to identify and refer the beneficiary or prospective beneficiary to an alternative provider to which the beneficiary or prospective beneficiary has no objection.

Referral Requirements

Referrals must be made to an alternative provider that:

- ▶ Is in reasonable geographic proximity (except for services provided by telephone, internet, or similar means)
- ▶ Offers services comparable in substance and quality
- ▶ Has the capacity to accept additional beneficiaries

Referral Requirements

- ▶ Referrals may be to another faith-based organization if the beneficiary or prospective beneficiary does not object to that provider
- ▶ However, if beneficiary requests a secular provider and one is available, the faith-based organization must make a referral to that provider

Documenting the Referral

- ▶ Faith-based organizations must document all referrals to an alternative provider
- ▶ Referral records must be maintained with official grant records and include:
 - Date of the referral
 - Name of the alternative provider
 - Address and contact information of the alternate provider
- ▶ Record can consist of copy of notice with notes about referral information

Lack of Alternative Providers

- ▶ When a faith-based organization determines that it is unable to identify an alternative provider and make a referral, it must:
 - Promptly notify the entity that made the award—either ED, the grantee or subgrantee
- ▶ Then ED, the grantee or subgrantee must determine whether there is any other suitable alternative provider to which the beneficiary or prospective beneficiary can be referred
- ▶ If the entity that made the award is a subgrantee or grantee and cannot make a referral, that entity must promptly notify the awarding entity above it

Grants Management Principles

- ▶ Document your project activities
 - Including all provider referrals and any occurrences when an alternative provider could not be identified
- ▶ Account for each grant or subgrant expenditure
 - See 2 CFR Part 200.302(b) for requirements on maintaining of accurate accounting records
- ▶ Ensure Federally funded projects do not support explicitly religious activities or include explicitly religious activities as part of the project activities
- ▶ Achieve successful project outcomes

Winning Reminders

- ▶ Review the [Faith-based and Other Neighborhood Organizations](#) page for applicants and grantees
- ▶ Check the grant or subgrant terms and conditions to understand your grants administration responsibilities
- ▶ Review applicable regulations and guidance
- ▶ When in doubt, contact your program officer

Thanks for joining us today!



Best wishes in applying for
and administering ED grants
to meet the needs of your
community.

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