

SUMMARY OF GUIDELINES FOR ENSURING EQUAL TREATMENT
OF FAITH-BASED ORGANIZATIONS

This is a summary of the guidelines regarding participation of faith-based organizations in programs and activities funded by the U.S. Department of Housing and Urban Development pursuant to the governing regulations of the Code of Federal Regulations, Title 24, Part 5, Section 109. This summary is based upon the Final Rules published July 9, 2004.

A. Equal Participation of Faith-Based Organizations in HUD Programs and Activities

Faith-based organizations are eligible, on the same basis as any other organization, to participate in the full range of HUD's programs and activities. This includes programs that make funds available through contract, grants, cooperative agreements, or other instruments for eligible goods, services, and activities as well as programs that do not make funds available, but involve other forms of benefit or resources, e.g., Federal Housing Administration (FHA) mortgage insurance or foreclosed properties that are available to qualifying organizations. Neither the Federal government, nor a State or local government, nor any other entity that administers any HUD program or activity shall discriminate against an organization on the basis of the organization's religious character or affiliation.

B. Inherently Religious Activities

Organizations that receive direct HUD funds under a HUD program or activity may not engage in inherently religious activities, such as worship, religious instruction, or proselytization, as part of the programs or services directly funded under the HUD program or activity. If an organization conducts such activities, the activities must be offered separately, in time or location, from the programs, activities, or services supported by direct HUD funds, and participation must be voluntary for the beneficiaries of these programs, activities, or services.

The term "direct HUD funds" refers to direct funding within the meaning of the Establishment Clause of the First Amendment. For example, direct HUD funding may mean that the government or an intermediate organization with similar duties as a governmental entity under a particular HUD program selects an organization and purchases the needed services straight from the organization (e.g., via a contract or cooperative agreement). In contrast, indirect funding scenarios may place the choice of service provided in the hands of a beneficiary, and then pay for the cost of that service through a voucher, certificate, or other similar means of payment.

C. Independence of Faith-Based Organizations.

A faith-based organization that participates in a HUD program or activity will retain its independence from Federal, State and local governments, and may continue to carry out its mission, including the definition, practice, and expression of its religious beliefs, provided that it does not engage in any inherently religious activities, such as worship, religious instruction, or

proselytization, as part of the program or services supported by direct HUD funds. Among other things, faith-based organizations may use space in their facilities to provide services under a HUD program, without removing religious art, icons, scriptures, or other religious symbols. In addition, a faith-based organization participating in a HUD program retains its authority over its internal governance, and it may retain religious terms in its organization's name, select its board members and otherwise govern itself on a religious basis, and include religious references in its organization's mission statements and other governing documents.

D. Exemption From Title VII Employment Discrimination Requirements

A faith-based organization's exemption from the Federal prohibition on employment discrimination on the basis of religion, set forth in section 702(a) of the Civil Rights Act of 1964 (42U.S.C. 2000e-1), is not forfeited when the organization participates in a HUD program.

E. Nondiscrimination Requirements

An organization that receives direct HUD funds shall not, in providing program assistance, discriminate against a program beneficiary or prospective program beneficiary on the basis of religion or religious belief. Organizations participating in HUD program and activities must also comply with any other applicable Federal fair housing and nondiscrimination requirements.

F. Acquisition, Construction and Rehabilitation of Structures

HUD funds may not be used for the acquisition, construction, or rehabilitation of structures to the extent that those structures are used for inherently religious activities. HUD funds may be used for the acquisition, construction, or rehabilitation of structures only to the extent that those structures are used for conducting eligible activities under a HUD program or activity. Where a structure is used for both eligible and inherently religious activities, HUD funds may not exceed the cost of those portions of the acquisition, construction, or rehabilitation that are attributable to eligible activities in accordance with the cost accounting requirements applicable to the HUD program or activity. Sanctuaries, chapels, and other rooms that a HUD-funded religious congregation uses as its principal place of worship, however, are ineligible for HUD-funded improvements. Disposition of real property after use for the authorized purpose, or any change in use of the property for the authorized purpose, is subject to government-wide regulations government real property disposition (see, e.g., 24 CFR parts 84 and 85).