

§ 2.34

or certificate that allows the beneficiary to choose the service provider, or some other mechanism is provided to ensure that beneficiaries have a genuine and independent choice among providers or program options. All organizations must, however, satisfy all applicable legal and programmatic requirements.

§ 2.34 Application to State and local funds.

If a State or local government voluntarily contributes its own funds to supplement activities carried out under the applicable programs, the State or local government has the option to separate out the Federal funds or commingle them. If the funds are commingled, then the provisions of this subpart apply to all of the commingled funds in the same manner, and to the same extent, as the provisions apply to the Federal assistance. State funds that are contributed pursuant to the requirements of a matching or grant agreement are considered to be commingled funds.

§ 2.35 Effect of DOL support on Title VII employment nondiscrimination requirements and on other existing statutes.

A religious organization's exemption from the Federal prohibition on employment discrimination on the basis of religion, set forth in § 702(a) of the Civil Rights Act of 1964, 42 U.S.C. § 2000e-1, is not forfeited when the organization receives direct or indirect DOL support. Some DOL programs, however, were established through Federal statutes containing independent statutory provisions requiring that recipients refrain from discriminating on the basis of religion. Accordingly, to determine the scope of any applicable requirements, recipients and potential recipients should consult with the appropriate DOL program official or with the Civil Rights Center, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N4123, Washington, DC 20210, (202) 693-6500. Individuals with hearing or speech impairments may access this telephone number via TTY by calling the toll-free Federal Information Relay Service at 1-800-877-8339.

29 CFR Subtitle A (7-1-05 Edition)

§ 2.36 Status of nonprofit organizations.

(a) In general, DOL does not require that an organization, including a religious organization, obtain tax-exempt status under section 501(c)(3) of the Internal Revenue Code in order to be eligible for Federal financial assistance under DOL social service programs. Many such programs, however, do require an organization to be a "nonprofit organization" in order to be eligible for such support. Individual solicitations that require organizations to have nonprofit status must specifically so indicate in the eligibility section of the solicitation. In addition, any solicitation for a program that requires an organization to maintain tax-exempt status must expressly state the statutory authority for requiring such status. For assistance with questions about a particular solicitation, applicants should contact the DOL program office that issued the solicitation.

(b) Unless otherwise provided by statute, in DOL programs in which an applicant must show that it is a nonprofit organization, the applicant must be permitted to do so by any of the following means:

(1) Proof that the Internal Revenue Service currently recognizes the applicant as tax exempt under section 501(c)(3) of the Internal Revenue Code;

(2) A statement from a State taxing body or the State Secretary of State certifying that:

(i) the organization is a nonprofit organization operating within the State; and

(ii) no part of its net earnings may lawfully benefit any private shareholder or individual;

(3) A certified copy of the applicant's certificate of incorporation or similar document that clearly establishes the nonprofit status of the applicant; or

(4) Any item described in paragraphs (b)(1) through (b)(3) of this section, if that item applies to a State or national parent organization, together with a statement by the State or national parent organization that the applicant is a local nonprofit affiliate of the organization.