PART 205—PARTICIPATION BY RELIGIOUS ORGANIZATIONS IN USAID PROGRAMS


§ 205.1 Grants and cooperative agreements.

(a) Religious organizations are eligible, on the same basis as any other organization to participate in any USAID program for which they are otherwise eligible. In the selection of service providers, neither USAID nor entities that make and administer sub-awards of USAID funds shall discriminate for or against an organization on the basis of the organization's religious character or affiliation. As used in this section, the term “program” refers to Federally funded USAID grants and cooperative agreements, including sub-grants and sub-agreements. The term also includes grants awarded under contracts that have been awarded by USAID for the purpose of administering grant programs. As used in this section, the term “grantee” includes a recipient of a grant or a signatory to a cooperative agreement, as well as sub-recipients of USAID assistance under grants, cooperative agreements and contracts.

(b) Organizations that receive direct financial assistance from USAID under any USAID program may not engage in inherently religious activities, such as worship, religious instruction, or proselytization, as part of the programs or services directly funded with direct financial assistance from USAID. If an organization conducts such activities, the activities must be offered separately, in time or location, from the programs or services funded with direct financial assistance from USAID. USAID 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 this part. Where a structure is used for both eligible and inherently religious activities, USAID 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 USAID funds in this part. Sanctuaries, chapels, or other rooms that a USAID-funded religious congregation uses as its principal place of worship, however, are ineligible for USAID-funded improvements. Disposition of real property after the term of the grant, or any change in use of the property during the term of the grant, is subject to government-wide regulations governing real property disposition. (See 22 CFR part 226).
An organization that participates in programs funded by financial assistance from USAID shall not, in providing services, discriminate against a program beneficiary or potential program beneficiary on the basis of religion or religious belief.

No grant document, contract, agreement, covenant, memorandum of understanding, policy, or regulation that is used by USAID shall require only religious organizations to provide assurances that they will not use monies or property for inherently religious activities. Any such restrictions shall apply equally to religious and secular organizations. All organizations that participate in USAID programs, including religious ones, must carry out eligible activities in accordance with all program requirements and other applicable requirements governing the conduct of USAID-funded activities, including those prohibiting the use of direct financial assistance from USAID to engage in inherently religious activities. No grant document, agreement, covenant, memorandum of understanding, policy, or regulation that is used by USAID shall disqualify religious organizations from participating in USAID's programs because such organizations are motivated or influenced by religious faith to provide social services, or because of their religious character or affiliation.

A religious organization's exemption from the Federal prohibition on employment discrimination on the basis of religion, set forth in Sec. 702(a) of the Civil Rights Act of 1964, 42 U.S.C. 2000e-1, is not forfeited when the organization receives financial assistance from USAID.

Many USAID grant programs require an organization to be a "non-profit organization" in order to be eligible for funding. Individual solicitations that require organizations to have nonprofit status will specifically indicate in the eligibility section of a solicitation. Grantees should consult with the appropriate USAID program office to determine the scope of any applicable requirements. In USAID programs in which an applicant must show that it is a nonprofit organization, the applicant may do so by any of the following means:

1. Proof that the Internal Revenue Service currently recognizes the applicant as an organization to which contributions are tax deductible 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 (3) of this section if that item applies to a state or national parent organization, together with a statement by the State or parent organization that the applicant is a local nonprofit affiliate.

The Secretary of State may waive the requirements of this section in whole or in part, on a case-by-case basis, where the Secretary determines that such waiver is necessary to further the national security or foreign policy interests of the United States.

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PART 206—TESTIMONY BY EMPLOYEES AND THE PRODUCTION OF DOCUMENTS IN PROCEEDINGS WHERE A.I.D. IS NOT A PARTY

Sec.
206.1 Purpose and scope.
206.2 Production or disclosure prohibited unless approved by the General Counsel.
206.3 Procedure in the event of a demand for production or disclosure.
206.4 Procedure where a decision concerning a demand is not made prior to the time a response to the demand is required.
206.5 Procedure in the event of an adverse ruling.
206.6 Considerations in determining whether production or disclosure should be made pursuant to a demand.