

complaint was filed. The proposed determination will become the final determination 35 days after it is made, unless you request review of the proposed determination by the ASCR. The ASCR also may review the proposed determination on his or her own initiative. If the ASCR reviews the proposed determination, he or she will allow the parties a reasonable opportunity to file briefs in support or opposition to the proposed determination, and afterwards file a final determination within 35 days after you request review of the proposed determination.

(b) To the maximum extent practicable, a final determination will be filed within 180 days after you filed your Section 741 Complaint Request.

[63 FR 67394, Dec. 4, 1998, as amended at 68 FR 27449, May 20, 2003]

§ 15f.25 Will USDA pay my attorneys fees if I win?

If you prevail on your eligible complaint, either in whole or in part, after a proceeding before an ALJ under the procedures in this subpart, you may be eligible for an award of attorneys fees as a prevailing party under the Equal Access to Justice Act (EAJA), 5 U.S.C. 504. To get an EAJA award, you must file an application for such fees with the ALJ within 30 days after the final determination is made. Instructions for filing an EAJA application and obtaining an EAJA award are contained in 7 CFR part 1, subpart J. The ALJ must follow those rules, and not these Section 741 Complaint Request rules, in making any EAJA award.

Subpart E—What if I Do Not Agree With the Final Determination by USDA?

§ 15f.26 May I seek judicial review of the final determination?

Section 741 provides that you have at least 180 days after a final determination denying your eligible complaint under these rules to seek judicial review in the United States Court of Federal Claims or a United States District Court of competent jurisdiction.

Subpart F—How Do I Count Days for Purposes of Deadlines and What Happens if I Miss a Deadline in These Rules?

§ 15f.27 When is something considered “filed” as required by these rules and to whom do I need to give copies of what I file?

A document, or other item, that must be “filed” under these rules is considered filed when postmarked or when it is received and date-stamped by the Docketing Clerk.

§ 15f.28 When I or someone else has to do something within a certain number of days, how will USDA or the ALJ count the days?

Unless otherwise specifically noted, a “day” refers to a calendar day and a document that must be filed by a certain date must either be postmarked on that date or received by the Docketing Clerk on that date. For documents that must be or are “filed” under these regulations, you count the number of days after filing starting with the day after the filing date as day one. For other time periods, you calculate the time period by counting the day after receipt by the party as day one. If the last day of a time period expires on a Saturday, a Sunday, or a Federal holiday, the last day of the time period will expire on the next business day.

§ 15f.29 May I request an extension of a deadline or may I get relief for missing a deadline in these rules?

You may request that the ALJ extend a deadline in these rules, or afford you relief for missing a deadline, which he or she may do, consistent with the principles of sovereign immunity, the terms of any applicable statute, these rules, and the necessity of expeditious completion of the public business. It is the intent of USDA that the time deadlines expressed in these regulations be construed equitably to ensure resolution of eligible complaints, to the extent permitted by law.

PART 16—EQUAL OPPORTUNITY FOR RELIGIOUS ORGANIZATIONS

Sec.
16.1 Purpose and applicability.

§ 16.1

- 16.2 Rights of religious organizations.
- 16.3 Responsibilities of participating organizations.
- 16.4 Effect on State and local funds.
- 16.5 Compliance.

AUTHORITY: 5 U.S.C. 301; E.O. 13279, 67 FR 77141, 3 CFR, 2002 Comp., p. 258; E.O. 13280, 67 FR 77145, 3 CFR, 2002 Comp., p. 262.

SOURCE: 69 FR 41382, July 9, 2004, unless otherwise noted.

§ 16.1 Purpose and applicability.

(a) The purpose of this part is to set forth USDA policy regarding equal opportunity for religious organizations to participate in USDA assistance programs for which other private organizations are eligible.

(b) Except as otherwise specifically provided in this part, the policy outlined in this part applies to all recipients and subrecipients of USDA assistance to which 7 CFR parts 3015, 3016, or 3019 apply, and to recipients and subrecipients of Commodity Credit Corporation assistance that is administered by agencies of USDA.

§ 16.2 Rights of religious organizations.

(a) A religious organization is eligible, on the same basis as any other eligible private organization, to access and participate in USDA assistance programs. Neither the Federal government nor a State or local government receiving USDA assistance shall, in the selection of service providers, discriminate for or against a religious organization on the basis of the organization's religious character or affiliation.

(b) A religious organization that participates in USDA assistance programs will retain its independence and may continue to carry out its mission, including the definition, practice, and expression of its religious beliefs, provided that it does not use USDA direct assistance to support any inherently religious activities, such as worship, religious instruction, or proselytization. Among other things, a religious organization may:

- (1) Use space in its facilities to provide services and programs without removing religious art, icons, scriptures, or other religious symbols,
- (2) Retain religious terms in its organization's name,

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(3) Select its board members and otherwise govern itself on a religious basis, and

(4) Include religious references in its organizations' mission statements and other governing documents.

(c) In addition, a religious 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, 42 U.S.C. 2000e-1, is not forfeited when an organization receives USDA assistance.

§ 16.3 Responsibilities of participating organizations.

(a) An organization that participates in programs and activities supported by direct USDA assistance programs shall not discriminate against a program beneficiary or prospective program beneficiary on the basis of religion or religious belief.

(b) Organizations that receive direct USDA assistance under any USDA program may not engage in inherently religious activities, such as worship, religious instruction, or proselytization, as part of the programs or services supported with direct USDA assistance. If an organization conducts such activities, the activities must be offered separately, in time or location, from the programs or services supported with direct assistance from USDA, and participation must be voluntary for beneficiaries of the programs or services supported with such direct assistance. These restrictions on inherently religious activities do not apply where USDA funds or benefits are provided to religious organizations as a result of a genuine and independent private choice of a beneficiary or through other indirect funding mechanisms, provided the religious organizations otherwise satisfy the requirements of the program.

(c) Nothing in paragraphs (a) or (b) shall be construed to prevent religious organizations that receive USDA assistance under the Richard B. Russell National School Lunch Act, 42 U.S.C. 1751 *et seq.*, the Child Nutrition Act of 1966, 42 U.S.C. 1771 *et seq.*, or USDA international school feeding programs

from considering religion in their admissions practices or from imposing religious attendance or curricular requirements at their schools.

(d)(1) Direct USDA assistance may be used for the acquisition, construction, or rehabilitation of structures only to the extent that those structures are used for conducting USDA programs and activities and only to the extent authorized by the applicable program statutes and regulations. Direct USDA assistance may not be used for the acquisition, construction, or rehabilitation of structures to the extent that those structures are used by the USDA funding recipients for inherently religious activities. Where a structure is used for both eligible and inherently religious activities, direct USDA assistance 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 USDA funds. Sanctuaries, chapels, or other rooms that an organization receiving direct assistance from USDA uses as its principal place of worship, however, are ineligible for USDA-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 7 CFR parts 3015, 3016 and 3019).

(2) Any use of direct USDA assistance funds for equipment, supplies, labor, indirect costs and the like shall be prorated between the USDA program or activity and any use for other purposes by the religious organization in accordance with applicable laws, regulations, and guidance.

(3) Nothing in this section shall be construed to prevent the residents of housing receiving direct USDA assistance funds from engaging in religious exercise within such housing.

§ 16.4 Effect on State and local funds.

If a State or local government voluntarily contributes its own funds to supplement activities carried out under programs governed by this part, the State or local government has the option to separate out the direct USDA

assistance funds or commingle them. If the funds are commingled, the provisions of this part shall apply to all of the commingled funds in the same manner, and to the same extent, as the provisions apply to the direct USDA assistance.

§ 16.5 Compliance.

USDA agencies will monitor compliance with this part in the course of regular oversight of USDA programs.

PART 17—SALES OF AGRICULTURAL COMMODITIES MADE AVAILABLE UNDER TITLE I OF THE AGRICULTURAL TRADE DEVELOPMENT AND ASSISTANCE ACT OF 1954, AS AMENDED

Sec.

- 17.1 General.
- 17.2 Definition of terms.
- 17.3 Purchase authorizations.
- 17.4 Agents of the participant or importer.
- 17.5 Contracts between commodity suppliers and importers.
- 17.6 Discounts, fees, commissions and payments.
- 17.7 Notice of sale procedures.
- 17.8 Ocean transportation.
- 17.9 CCC payment to suppliers.
- 17.10 Refunds and insurance.
- 17.11 Recordkeeping and access to records.

AUTHORITY: 7 U.S.C. 1701-1704, 1731-1736b, 1736f, 5676; E.O. 12220, 45 FR 44245.

SOURCE: 62 FR 52932, Oct. 10, 1997, unless otherwise noted.

§ 17.1 General.

(a) *What this part covers.* This part contains the regulations governing the financing of the sale and exportation of agricultural commodities by the Commodity Credit Corporation (CCC), through private trade channels to the maximum extent practicable, under the authority of title I of the Agricultural Trade Development and Assistance Act of 1954, as amended (hereinafter called "the Act").

(b) *Agricultural commodities agreements.* (1) Under the Act, the Government of the United States enters into Agricultural Commodities Agreements with governments of foreign countries or with private entities. These agreements cover financing of the sale and