

**§ 2.31 Definitions.**

As used in the regulations in this subpart:

(a) The term *Federal financial assistance* means assistance that non-Federal entities (including State and local governments) receive or administer in the form of grants, contracts, loans, loan guarantees, property, cooperative agreements, direct appropriations, or other direct or indirect assistance, but does not include a tax credit, deduction or exemption. Federal financial assistance may be *direct* or *indirect*.

(1) The term *direct Federal financial assistance* or *Federal financial assistance provided directly* means that the Government or a DOL social service intermediary provider under this part selects the provider and either purchases services from that provider (*e.g.*, via a contract) or awards funds to that provider to carry out a service (*e.g.*, via grant or cooperative agreement). In general, Federal financial assistance shall be treated as direct, unless it meets the definition of *indirect Federal financial assistance* or *Federal financial assistance provided indirectly*.

(2) The term *indirect Federal financial assistance* or *Federal financial assistance provided indirectly* means that the choice of the service provider 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. Federal financial assistance provided to an organization is considered *indirect* when:

(i) The Government program through which the beneficiary receives the voucher, certificate, or other similar means of Government-funded payment is neutral toward religion;

(ii) The organization receives the assistance as a result of a decision of the beneficiary, not a decision of the government; and

(iii) The beneficiary has at least one adequate secular option for the use of the voucher, certificate, or other similar means of Government-funded payment.

(3) The recipient of sub-awards received through programs administered by States or other intermediaries that are themselves recipients of Federal financial assistance (*e.g.*, local areas

that receive within-state allocations to provide workforce services under title I of the Workforce Innovation and Opportunity Act) are not considered recipients of *indirect Federal financial assistance* or recipients of *Federal financial assistance provided indirectly* as those terms are used in Executive Order 13559. These recipients of sub-awards are considered recipients of direct Federal financial assistance.

(b) The term *social service program* means a program that is administered or supported by the Federal Government, or by a State or local government using Federal financial assistance, and that provides services directed at reducing poverty, improving opportunities for low-income children, revitalizing low-income communities, empowering low-income families and low-income individuals to become self-sufficient, or otherwise helping people in need. Such programs include, but are not limited to, the following:

(1) Child care services and services to meet the special needs of children, older individuals, and individuals with disabilities (including physical, mental, or emotional disabilities);

(2) Job training and related services, and employment services;

(3) Information, referral, and counseling services;

(4) Literacy and mentoring programs; and

(5) Services for the prevention and treatment of juvenile delinquency and substance abuse, services for the prevention of crime and the provision of assistance to the victims and the families of criminal offenders, and services related to intervention in, and prevention of domestic violence.

(c) The term *DOL* means the U.S. Department of Labor.

(d) The term *DOL-supported social service program*, *DOL social service program*, or *DOL program* means a social service program, as defined in paragraph (b) of this section, that is administered by or for DOL with DOL support. Such programs include, but are not limited to, the One Stop Career Center System, the Job Corps, and other programs supported through the Workforce Investment Act.

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(e) The term *DOL social service provider* means any non-Federal organization, other than a State or local government, that seeks or receives DOL support as defined in paragraph (g) of this section, or participates in DOL programs other than as the ultimate beneficiary of such programs.

(f) The term *DOL social service intermediary provider* means any DOL social service provider, including a non-governmental organization, that, as part of its duties, selects subgrantees to receive DOL support or subcontractors to provide DOL-supported services, or has the same duties under this part as a governmental entity.

(g) The term *DOL support* means Federal financial assistance, as well as procurement funding provided to a non-Federal organization, including a State or local government, to support the organization's administration of or participation in a DOL social service program as defined in paragraph (d) of this section.

[69 FR 41891, July 12, 2004, as amended at 81 FR 19422, Apr. 4, 2016]

### **§ 2.32 Equal participation of religious organizations.**

(a) Religious organizations must be eligible, on the same basis as any other organization, to seek DOL support or participate in DOL programs for which they are otherwise eligible. DOL, DOL social service intermediary providers, as well as State and local governments administering DOL support, must not discriminate for or against an organization on the basis of the organization's religious character or affiliation, although this requirement does not preclude DOL, DOL social service providers, or State and local governments administering DOL support from accommodating religion in a manner consistent with the Establishment Clause. In addition, because this rule does not affect existing constitutional requirements, DOL, DOL social service providers (insofar as they may otherwise be subject to any constitutional requirements), and State and local governments administering DOL support must continue to comply with otherwise applicable constitutional principles, including, among others, those articulated in the Establishment, Free

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Speech, and Free Exercise Clauses of the First Amendment to the Constitution.

(b) A religious organization that is a DOL social service provider retains its independence from Federal, State, and local governments and must be permitted to continue to carry out its mission, including the definition, development, practice, and expression of its religious beliefs, subject to the provisions of § 2.33. Among other things, such a religious organization must be permitted to:

(1) Use its facilities to provide DOL-supported social services without removing or altering religious art, icons, scriptures, or other religious symbols from those facilities; and

(2) Retain its authority over its internal governance, including retaining religious terms in its name, selecting its board members on a religious basis, and including religious references in its mission statements and other governing documents.

(c) A grant document, contract or other agreement, covenant, memorandum of understanding, policy, or regulation that is used by DOL, a State or local government administering DOL support, or a DOL social service intermediary provider must not require only religious organizations to provide assurances that they will not use direct DOL support for explicitly religious activities (including activities that involve overt religious content, such as worship, religious instruction, or proselytization). Any such requirements must apply equally to both religious and other organizations. All organizations, including religious ones, that are DOL social service providers must carry out DOL-supported activities in accordance with all applicable legal and programmatic requirements, including those prohibiting the use of direct DOL support for explicitly religious activities (including activities that involve overt religious content, such as worship, religious instruction, or proselytization). A grant document, contract or other agreement, covenant, memorandum of understanding, policy, or regulation that is used by DOL, a State or local government, or a DOL social service intermediary provider in administering a DOL social service