George W. Bush Presidential Library

Collection: Faith-Based and Community Initiatives, Office of (OFBCI)

Series: Willett, Don R. – General Files

Folder Title: [Correspondence] [Folder 3][1]

Withdrawn/Redacted Material
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DOCUMENT NO.	FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
001	Letter	[Letter] - To: Don - From: Don	1	N.D.	P5;
002	Fax	USDA Policies - To: Bill Canty - From: Jim Schwartz	1	09/01/2000	P6/b6;
003	Email	FW: FYI - To: Don R. Willett, et al - From: Davids, James	2	05/30/2001	P5;
004	Memorandum	Enforcement of Executive Order 13166 - To: Carl H. Esbeck - From: Merrily A. Friedlander	2	06/25/2001	P5;
005	Email	[Email] - To: Don R. Willett - From: Aquiles F. Suarez	1	06/21/2001	P5;
006	Email	Re: EO 13166 - To: Don R. Willett - From: Diana L. Schact	1	04/25/2001	P5;
007	Email	Re: EO 13166 - To: Diana L. Schacht - From: Don R. Willett	1	04/25/2001	P5;

COLLECTION TITLE:
Faith-Based & Community Initiatives, White House Office of
SERIES:
Willett, Don R. - General Files
FOLDER TITLE:
[Correspondence] [Folder 3] [1]
FRC ID:
814

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advise between the President and his advisors, or between such advisors [a)(5) of the PRA]
P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

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b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

Withdrawn/Redacted Material
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DOCUMENT NO.	FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
008	Email	EO 13166 - To: Diana L. Schacht - From: Don R. Willett	1	04/23/2001	P5;
009	Fax	USDA Policies - To: Bill Canty - From: Jim Schwartz	1	09/01/2000	P6/b6;
010	Memorandum	Re I hate us getting beat up every day - To: John DiIulio, et al - From: Stanley Carlson-Theis	1	07/11/2001	P5;
011	Email	RE: bowery mission - To: Don R. Willett - From: Davids, James	2	06/01/2001	P5;

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 This document was prepared on Monday, May 07, 2012

Withdrawal Marker
The George W. Bush Library

FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Letter	[Letter] - To: Don - From: Don	1	N.D.	P5;

This marker identifies the original location of the withdrawn item listed above. For a complete list of items withdrawn from this folder, see the Withdrawal/Redaction Sheet at the front of the folder.

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Faith-Based & Community Initiatives, White House Office of
SERIES:
Willett, Don R. - General Files
FOLDER TITLE:
[Correspondence] [Folder 3] [1]
FRC ID:
814
OA Num.:
1661
NARA Num.:
1529

RESTRICTION CODES

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This Document was withdrawn on 5/2/2012 by JZ

THE WHITE HOUSE

WASHINGTON

OFFICE OF CABINET AFFAIRS

FACSIMILE TRANSMITTAL SHEET

TO: Don Eberly	FROM: Craig Felner
AGENCY/ORGANIZATION: Faith-Based Initiatives	DATE: 6-25
FAX NUMBER: 6-7018	TOTAL NO. OF PAGES INCLUDING COVER:
PHONE NUMBER:	SENDER'S PHONE NUMBER: (202) 456-7007
RE:	SENDER'S FAX NUMBER: (202) 456-2525

☐ URGENT ☐ FOR REVIEW ☐ PLEASE COMMENT ☐ PLEASE REPLY

NOTES/COMMENTS:

(If all pages are not received, please call (202) 456-2572)

MEDIA REFERRAL

TO: Jean Daniel/Christine Carpino

FROM: Jeff Greenfield **DATE:** 2/22/01

NEWS ORGANIZATION: Newhouse News Service

REPORTER: Mark O'Keefe **PHONE:** 202-383-7857

REPORTER'S DEADLINE: COB 2/26/01.

SUBJECT: Faith-based Organizations

REPORTER'S QUESTIONS:

Newhouse News Service owns approximately 30 mid-size newspapers such as the Cleveland Plain Dealer and the Portland Oregonian. The reporter is writing an article focusing on the President's faith-based initiative. The reporter has been in Memphis researching this story and will likely use the Memphis Union Mission as an example of the problems that could exist with the initiative. The Memphis Union Mission was terminated from receiving TEFAP commodities because they required recipients to attend a religious service prior to the distribution of commodities, which violates USDA regulations prohibiting such activities.

1) The reporter requested a copy of the regulation regarding TEFAP and the giving of commodities to organizations such as Memphis Union Mission and other distribution sites. (see attached)

2) In the Bush Administration, will the guidelines change to allow faith-based organizations to receive TEFAP commodities while requiring participation in faith-based activities?

3) The reporter would like clarification on the Executive Order for faith-based organizations. In particular, the reporter is interested in knowing which Federal organizations are named in the order and what role will USDA programs have in this initiative?

with the State agency pursuant to §251.2(c), provided that each such agency must be reviewed no less frequently than once every four years; and

(ii) An annual review of one-tenth or 20, whichever is fewer, of all eligible recipient agencies which receive TEFAP commodities and/or administrative funds pursuant to an agreement with another eligible recipient agency. Reviews must be conducted, to the maximum extent feasible, simultaneously with actual distribution of commodities and/or meal service, and eligibility determinations, if applicable. State agencies must develop a system for selecting eligible recipient agencies for review that ensures deficiencies in program administration are detected and resolved in an effective and efficient manner.

(3) Each review must encompass, as applicable, eligibility determinations, food ordering procedures, storage and warehousing practices, inventory controls, approval of distribution sites, reporting and recordkeeping requirements, and civil rights.

(4) Upon concurrence by FNS, reviews of eligible recipient agencies which have been conducted by FNS Regional Office personnel may be incorporated into the minimum coverage required by paragraph (e)(2) of this section.

(5) If deficiencies are disclosed through the review of an eligible recipient agency, the State agency must submit a report of the review findings to the eligible recipient agency and ensure that corrective action is taken to eliminate the deficiencies identified.

(f) *Limitation on unrelated activities.* (1) Activities unrelated to the distribution of TEFAP foods or meal service may be conducted at distribution sites as long as:

(i) The person(s) conducting the activity makes clear that the activity is not part of TEFAP and is not endorsed by the Department (impermissible activities include information not related to TEFAP placed in or printed on bags, boxes, or other containers in which commodities are distributed). Recipes or information about commodities, dates of future distributions, hours of operations, or other Federal, State, or local government programs or services for the needy may be distributed without a clarification that the information is not endorsed by the Department;

(ii) The person(s) conducting the activity makes clear that cooperation is not a condition of the receipt of TEFAP commodities for home consumption or prepared meals containing TEFAP commodities (cooperation includes contributing money, signing petitions, or conversing with the person(s)); and

(iii) The activity is not conducted in a manner that disrupts the distribution of TEFAP commodities or meal service.

(2) Eligible recipient agencies and distribution sites shall ensure that activities unrelated to the distribution of TEFAP foods or meal service are conducted in a manner consistent with paragraph (f)(1) of this section.

(3) *Termination for violation.* Except as provided in paragraph (f)(4) of this section, State agencies shall immediately terminate from further participation in TEFAP operations any emergency feeding organization or distribution site that distributes or permits distribution of materials in a manner inconsistent with the provisions of paragraph (f)(1) of this section.

(4) *Termination exception.* The State agency may withhold termination of an eligible recipient agency's or distribution site's TEFAP participation if the State agency cannot find another eligible recipient agency or distribution site to operate the distribution in the area served by the violating organization. In such circumstances, the State agency shall monitor the violating organization to ensure that no further violations occur.

(g) *Use of volunteer workers and non-USDA commodities.* In the operation of the Emergency Food Assistance Program, State agencies and eligible recipient agencies shall, to the maximum extent practicable, use volunteer workers and foods which have been donated by charitable and other types of organizations.

(h) *Maintenance of effort.* The State may not reduce the expenditure of its own funds to provide commodities or services to organizations receiving funds or services under the Emergency

with the State agency pursuant to §251.2(e), provided that each such agency must be reviewed no less frequently than once every four years; and

(ii) An annual review of one-tenth or 20, whichever is fewer, of all eligible recipient agencies which receive TEFAP commodities and/or administrative funds pursuant to an agreement with another eligible recipient agency. Reviews must be conducted, to the maximum extent feasible, simultaneously with actual distribution of commodities and/or meal service, and eligibility determinations. If applicable, State agencies must develop a system for selecting eligible recipient agencies for review that ensures deficiencies in program administration are detected and resolved in an effective and efficient manner.

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(h) *Maintenance of effort.* The State may not reduce the expenditure of its own funds to provide commodities or services to organizations receiving funds or services under the Emergency

United States Department of Agriculture

Food and Nutrition Service

3101 Park Center Drive
Alexandria, VA 22302

SEP 10 1993

Reply to Attn. of: Food Distribution Programs Policy Memo No. 22

Subject: Activities Unrelated to Distribution of USDA Commodities or Meals

To: Regional Director
Special Nutrition Programs
MARO, NERO, SERO, SWRO, WRO

Regional Director
Food Distribution Programs
MPRO, MWRO

In response to recent questions from regional offices, this memorandum will serve to clarify policy with regard to activities unrelated to the distribution of Department of Agriculture (USDA) commodities or meals prepared with these commodities that take place at sites participating in USDA Commodity Distribution Programs.

Organizations receiving USDA commodities may not impose any eligibility requirements beyond those established by the State on applicants for, or recipients of, USDA commodities or meals prepared with these commodities. Therefore, activities unrelated to the receipt of USDA commodities may not be conducted at sites unless participation in such activities is expressly identified as being separate and apart from food service or distribution involving USDA commodities and not required in order to receive such commodities or meals that include them. For example, an overnight shelter that receives USDA commodities to prepare meals may not require otherwise eligible individuals to attend religious services in order to receive meals. Attendance at such services may, however, be required to stay overnight in the shelter, as this is unrelated to the receipt of meals that include such commodities. Other examples of unrelated activities that cannot be required for participation in USDA programs include political rallies and meetings, and solicitation of monetary contributions at the distribution or meal site for use by religious and other groups. (Organizations participating in the Nutrition Program for the Elderly can, of course, solicit voluntary contributions to defray the cost of the meal service they provide under the program.)

In their review or approval of organizations, State agencies should clearly ascertain whether additional requirements are placed on individuals for the receipt of USDA commodities or meals. Organizations that violate this prohibition should be given sufficient opportunity to abolish such requirements and be terminated from the program(s) if they fail to do so.

Food Distribution Programs Policy Memo No. 22 2

Please disseminate this information to your respective State agencies. If you have any questions, you may contact Lillie Ragan at (703) 305-2660.

VERNON R. MORGAN
Director
Food Distribution Division

Please detach the upper portion & return with your gift. Thank you!

HUNGER GRAM

SEPTEMBER 2000

MR. AND MRS. JIM SCHWARTZ
8792 OAKWOOD
OLIVE BRANCH MS 38654

A SERIOUS SITUATION HAS OCCURRED, RESULTING IN AN ANNUAL LOSS OF OVER 10 TONS OF FOOD FOR THE MISSION.

RECENTLY AN INSPECTOR FOR THE UNITED STATES DEPARTMENT OF AGRICULTURE (USDA) CONDUCTED A SURPRISE INSPECTION OF OUR POPLAR AVENUE FACILITY. WE PASSED OUR HEALTH INSPECTION, BUT THE USDA INSPECTOR HAS CUT OFF OUR SUPPLY OF DONATED FOODS!

THE INSPECTOR INDICATED THAT HIS ACTION WAS BASED UPON THE FACT THAT MEMPHIS UNION MISSION REQUIRES ALL PEOPLE RECEIVING ASSISTANCE TO ATTEND OUR GOSPEL SERVICES.

TO HAVE THE FOOD REINSTATED, I HAVE BEEN TOLD THAT ALL I HAVE TO DO IS SEND A LETTER TO THE USDA INDICATING WE WILL NO LONGER REQUIRE OUR CLIENTS TO ATTEND GOSPEL SERVICES.

> **SPEAKING FOR OUR BOARD, STAFF, RESIDENTS AND ALL DONORS WHO HAVE PLACED THEIR TRUST IN US, I MUST RESPECTFULLY SAY TO THE USDA, "THIS WILL NEVER HAPPEN! IT GOES AGAINST THE REASON WE EXIST--TO PREACH AND PROMOTE THE SPREADING OF THE GOSPEL OF JESUS CHRIST!"**

AS YOU KNOW, WE ARE COMMITTED TO PRESENTING THE GOSPEL TO EVERYONE WHO COMES TO US FOR HELP. AFTER ALL, IT IS ONLY THE "BREAD OF LIFE" THAT CAN SATISFY A MAN'S REAL HUNGER. TO OFFER FREE FOOD WITHOUT OFFERING THE BREAD OF LIFE WOULD BETRAY OUR BELIEFS, OUR PURPOSE AND YOUR TRUST; NOT TO MENTION, RISK LOSING GOD'S BLESSING ON THIS, HIS MINISTRY.

THE LOSS OF 10 TONS OF FOOD--LARGELY PROTEIN-RICH MEAT--COMES AT A DIFFICULT TIME FOR US. SO FAR, THIS YEAR, WE'VE PROVIDED OVER 3,000 MORE MEALS TO HOMELESS MEMPHIANS THAN LAST YEAR. AND WE ARE NOW PREPARING FOR OUR BUSIEST TIME OF YEAR, THE UPCOMING HOLIDAY SEASON.

WITH THE CHALLENGE THAT THE USDA HAS PRESENTED US, THERE IS ABSOLUTELY NO WAY WE CAN MAKE UP THE LOSS WITHOUT THE HELP OF COMPASSIONATE FRIENDS LIKE YOU. WILL YOU HELP US MAKE UP THE DEFICIT SO WE CAN CONTINUE TO PROVIDE NUTRITIOUS MEALS AND CHRISTIAN CARE TO THOSE WHO COME TO US HOMELESS, HURTING AND IN NEED OF THE LORD JESUS CHRIST? YOUR GIFT OF $25.00 IN AUGUST OF 1999 REALLY HELPED. WILL YOU HELP US AGAIN BY MAKING ANOTHER GIFT IN THAT AMOUNT TODAY?

COMMITTED TO THE CAUSE OF CHRIST,

REV. MARK CALHOUN
PRESIDENT

Fax Message

Jim Schwartz

(b)(6)

TEL: (b)(6) **FAX:** (b)(6)

Email: (b)(6)

Date 1-Sep-00

To: Bill Canty

FaxNo: 1 662 234 1744

Subj: USDA Policies

YOU SHOULD RECEIVE TWO PAGE(S), INCLUDING THIS COVER SHEET. IF YOU DO NOT RECEIVE ALL THE PAGES, PLEASE CALL ABOVE NUMBER.

Dear Bill:

Please see the attached "Hunger Gram" that I received from the Memphis Union Mission, a charity that I modestly support.

I cannot believe this is true! Tell me it ain't so!

If it is true, what is this Republican Congress doing to correct this use of food paid for by the taxpayers to help the needy that is constructively being used to preach atheism.

No one starved in this country before the socialist perfected the policy of taking our tax money and using it, through various programs to buy votes and consolidate their power. But this is a two pronged attack: consolidate power by buying votes through a redistribution of income while at the same time rendering our religious organizations irrelevant by replacing their charitable responsibilities with government largess.

Are we placing the same kind of restrictions on the billions we are sending to African nations for food?

Please see that Trent is aware of this since I know they are on a long weekend.

Regards, Jim

TRENT LOTT
MISSISSIPPI

MAJORITY LEADER

FINANCE

COMMERCE, SCIENCE, AND TRANSPORTATION

RULES

United States Senate

SUITE 487, RUSSELL SENATE OFFICE BUILDING
WASHINGTON, DC 20510–2403

245 EAST CAPITOL STREET
SUITE 226
JACKSON, MS 39201

3100 S. PASCAGOULA STREET
PASCAGOULA, MS 39567

#1 GOVERNMENT PLAZA
SUITE 428
GULFPORT, MS 39501

911 JACKSON AVENUE
SUITE 127
OXFORD, MS 38655

200 E. WASHINGTON STREET
SUITE 145
GREENWOOD, MS 38930

September 6, 2000

Honorable Daniel R. Glickman
Secretary
U.S. Department of Agriculture
14th Street & Independence Avenue, SW, Suite 200-A
Washington, D.C. 20250

45-4161260
FNS

Dear Dan,

I wanted to write to you on behalf of Jim Schwartz.

The enclosures with this letter detail the nature of the concern and should be self explanatory. I would sincerely appreciate you and your staff looking into this situation in a way that will provide every possible assistance. Should you have any questions about these materials, please feel free to make any direct constituent contact you feel necessary for whatever additional information you or your staff might need.

As you would probably expect, I place a high priority on looking into constituent concerns and would like to respond on this in a very personal way. Therefore, it would help expedite my handling of this case if you could refer to my constituents by name in your reply to my Oxford office. Again, I truly appreciate your time and attention to this for me.

I look forward to hearing from you soon, and with kind regards and best wishes, I am

Sincerely yours,

Trent Lott

TL:egh

Enclosure

#71
CC fax
mailing

JAN 19 2001

The Honorable Trent Lott
United States Senator
911 Jackson Avenue, Suite 127
Oxford, Mississippi 38655

Dear Senator Lott:

Thank you for your letter forwarding the concerns of your constituent, Mr. Jim Schwartz. Mr. Schwartz wrote to you about Memphis Union Mission, an organization that until recently received commodities donated by the Department of Agriculture's (USDA) Food and Nutrition Service (FNS). Memphis Union Mission received these commodities as an eligible recipient agency participating in the Emergency Food Assistance Program (TEFAP). The mission used these commodities to prepare and serve meals to needy persons.

In Tennessee, TEFAP is administered by the State Department of Agriculture. In July, the Tennessee Department of Agriculture made a routine monitoring visit to the mission. During that visit, the monitors noticed that the mission required all people who received assistance to participate in religious services prior to the meal service, contrary to TEFAP regulations. Federal regulations at 7 C.F.R. 251.10(f) prohibit eligible recipient agencies from making participation in an activity unrelated to TEFAP a condition of the receipt of TEFAP commodities or prepared meals containing TEFAP commodities. This provision does not prohibit unrelated activities, including religious activities, as long as the eligible recipient agency makes clear that participation is not required in order to receive TEFAP commodities or meals containing those commodities. This approach serves a number of purposes: Delivering TEFAP benefits without additional eligibility requirements; avoiding the appearance that USDA is endorsing any political, religious, or other view; and ensuring compliance with the First Amendment guarantees of separation of church and state and free exercise of religion.

Faith-based organizations play an important role in delivering TEFAP and other benefits and I applaud their efforts. However, we must also recognize the important principles established in the First Amendment. The TEFAP regulations balance these concerns by permitting organizations to participate in TEFAP regardless of their religious character as long as they do not make participation in religious activities mandatory. I have asked FNS to look into this matter further in order to make sure that all parties understand that this provision does not require religious organizations to change or abandon their religious principles, but only that TEFAP benefits are provided without additional eligibility requirements.

Sincerely,

Samuel Chambers, Jr.
Administrator

cc: The Honorable Trent Lott
United States Senate
487 Russell Senate Office Building
Washington, D.C. 20510-2403

OES

DRAFT:FNS:SNP:FDD:HPB:PhilCohen:dcd:9/20/00:305-2662:45-4161260
FINAL:FNS:SNP:FDD:HPB:PhilCohen:dcd:10/2/00:305-2662:45-4161260
File:J:Hon. Trent Lott

Lisa_T._Cummins@who.eop.gov
06/06/2001 09:07:57 AM

Record Type: Record

To: Don R. Willett/WHO/EOP, Don E. Eberly/WHO/EOP, Michele H. Tennery/WHO/EOP
cc:
Subject: fyi - article making the rounds

---------------------- Forwarded by Lisa T. Cummins/WHO/EOP on 06/06/2001 09:07 AM ---------------------------

(Embedded image moved to file: PIC27624.PCX)
Rudy Carrasco <rudy@harambee.org>
05/31/2001 05:38:58 PM

Record Type: Record

To: Lisa T. Cummins/WHO/EOP

cc:
Subject: fyi - article making the rounds

Lisa, FYI: This article is making the rounds on the Net. I saw it on Wall Street Journal's Best of the Web today.
Rudy

May 30, 2001
The White House'e Faith-Based Office Should Help Nashville Sally
By Marvin Olasky
TownHall.com
Just on the other side of the Cumberland River from downtown Nashville, Tenn., sits a Salvation Army Adult Rehabilitation Center that the Clinton administration punched in the mouth in 1998. That's when the U.S. Department

of Agriculture used its regulatory authority to take away the center's 23-year-long authorization to participate in the Food Stamp program. According to a 1999 letter from Shirley Watkins, then a USDA undersecretary,
the center lost use of food stamps -- worth $70,000 per year -- because the USDA wants participating drug or alcohol treatment programs to be state-certified. Center administrator Ken Merrifield, however, says that during the previous 23 years, the center was not certified and should not be, because the Salvation Army is a church and it's not the role of government to be certifying churches.

The ruddy-complexioned Major Merrifield, who has a military bearing and a thick thatch of silver hair, says he welcomes reporters and others to come and look around. His center, with its white cinderblock walls and clean linoleum, has 86 beds that are generally filled, and a cafeteria with silk daffodils on 20 four-man tables and silk ficus trees on the floor. Immaculate hallways sport pictures of flying ducks and a recreation room features a widescreen TV, pool table and two Coke machines.

The Sally -- as homeless folks often refer to a Salvation Army post -- is not a bad place to be for those who have been down and out. It's also not a place designed to enable residents to stay at the bottom. "This is not an entitlement program," says Merrifield. "The men have to work."

The center's work and self-help orientations are clear: Residents "have to go out and hunt for a job, visiting three places or more per day, and they need to get a real job, not one from some Fast Harry who gets them some quick bucks but nothing lasting." The center's religious teaching is not segmented from other parts of the program: "We are what we are 24 hours of the day. There is no separation of religion from rehabilitation."

Two-thirds of the men who enter the center's 90-day transitional program finish it with a job in hand and a slowly growing bank account. Merrifield, speaking of food stamps received, says, "The government thinks it's doing us
a favor but doesn't compute how much we are saving government, or what kind of havoc there would be if we weren't here."

The USDA did create some havoc at the center when it cut off food stamps, forcing the major to lay off one of his two counselors. "I'm from the government, and I'm here to hurt you," is the lesson homeless men absorbed. Correspondence from the USDA's Watkins indicates that the cutoff was discretionary, not mandated by legislative action. At one point in the process, Salvation Army officials thought the USDA action was a response to legislative changes within the food stamp program, and that to regain food stamp use it would have to set up 80 separate cookies facilities for the men
at the center.

Not so: Watkins' complaint was lack of certification. The Clinton USDA did not seem to care that the Nashville Salvation Army, while opposed to certification, had entered into a letter of agreement with the Tennessee Deptartment of Human Services, by which it always complied with requests to make records or information available for USDA audits.

Besides, the long-respected Salvation Army is not likely to let one of its posts sully its reputation; internal quality control standards kick in when things go wrong. Nor is this center a financial high-flyer. Merrifield wears
the regulation Salvation Army black tie, and the brown wood-like paneling, blue industrial carpet and pressed board desk of his office -- furniture on sale in the adjacent Salvation Army store is nicer -- suggest a barebones operation.

The Nashville center is not the only one hit. Major Larry White, a
Salvation
Army commander for 15 Southeastern states, reports that the Army --
standing
by its religious liberty, no-certification position -- lost use of food
stamps and surplus food at other centers during the Clinton administration:
Atlanta, Fort Worth, Houston, Jacksonville and Miami were among those cut
off.

"They are punishing us," he said, referring to Washington bureaucrats.
"We've tried to get help with this, but it hits a dead end, and we've never
made very much progress."

But a new administration is now in place, and it's exactly this type of
harassment that the White House Office of Faith-Based and Community
Initiatives is designed to stop. We'll watch what happens.

- PIC27624.PCX

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FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Email	FW: FYI - To: Don R. Willett, et al - From: Davids, James	2	05/30/2001	P5;

This marker identifies the original location of the withdrawn item listed above. For a complete list of items withdrawn from this folder, see the Withdrawal/Redaction Sheet at the front of the folder.

COLLECTION:
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SERIES:
Willett, Don R. - General Files
FOLDER TITLE:
[Correspondence] [Folder 3] [1]
FRC ID:
814
OA Num.:
1661
NARA Num.:
1529

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
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P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

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This Document was withdrawn on 5/2/2012 by JZ

Participation of Faith-Based Residential Treatment Programs in Food Stamp Program

The Food Stamp Act of 1977, as amended, and the Food Stamp Program rules prohibit participation by residents of institutions. Neither the Act nor the rules define "institution." However:

- The Act, in defining "household" at 7 U.S.C. 2012(i), states that no individual or group may participate if the individual or group resides in an institution. It goes on to state that narcotic addicts and alcoholics who live under the supervision of a private nonprofit institution for the purpose of regular participation in a drug or alcoholic treatment program must not be considered residents of institutions.

- The Act, at 7 U.S.C. 2012(f), defines a drug addiction and alcoholic treatment and rehabilitation program as a program conducted by a private nonprofit organization or institution, or a publicly operated community mental health center, under part B of title XIX of the Public Health Service Act (42 U.S.C. 300x, et seq.) to provide treatment that can lead to the rehabilitation of drug addicts and alcoholics.

- The rules state that:

    - Individuals will be considered residents of an institution when the institution provides them with most of their meals (over 50 percent of three meals daily) as part of its normal services [7 CFR 273.1(b)(7)(vii)], and that

    - The State agency must, prior to certifying any residents of a treatment program for food stamps, verify that it is under part B of title XIX of the Public Health Service Act, by checking itself, or by relying on FNS's verification in the process of granting authorization as a retailer.

- A drug and alcohol treatment program does not have to be receiving funding under title XIX for its residents to receive food stamps and use those food stamps to pay for meals served to them by the treatment program. However, the State agency that certifies that drug and alcohol treatment facilities meet the requirements of title XIX must make that certification in the case of the treatment facility to ensure that it provides treatment that can lead to the rehabilitation of drug addicts and alcoholics.

- Any residential drug and alcohol treatment program that cannot or will not qualify under title XIX cannot serve meals to its residents in a communal setting and accept food stamps from the residents. Nor can it require them to allow it to act as their authorized representative. However, if the residents apply on their own, and purchase and prepare their own food individually, they can be authorized to receive food stamps because they would not be residents of an institution, as defined by the food stamp rules. Such residents could be authorized as individuals, or as members of multi-person households. An official of the treatment program may act as such a household's authorized representative, at the household's request, but may not force the household to allow the official to act as its authorized representative.

- It is up to the State agency to determine if residents of a treatment center can be considered a household or residents of an institution.

Stanley W. Carlson-Thies
05/23/2001 02:54:45 PM

Record Type: Record

To: Don R. Willett/WHO/EOP@EOP

cc:
Subject: FW: Statutory & Regulatory Barriers to the receipt of Food Stamps for individuals enrolled in unlicensed Faith Based Drug Reh...

---------------------- Forwarded by Stanley W. Carlson-Thies/WHO/EOP on 05/23/2001 02:54 PM ---------------------------

"Mexic, Scott" <scott.mexic@usda.gov>
05/23/2001 02:44:48 PM

Record Type: Record

To: Stanley W. Carlson-Thies/WHO/EOP

cc:
Subject: FW: Statutory & Regulatory Barriers to the receipt of Food Stamps for individuals enrolled in unlicensed Faith Based Drug Reh...

OOPS!

-----Original Message-----
From: Mexic, Scott
Sent: Wednesday, May 23, 2001 2:34 PM
To: 'SCARISON@WHO.EOP.GOV'
Cc: Bost, Eric; Riley, Dawn; White, Hilary; Deberry, Drew
Subject: Statutory & Regulatory Barriers to the receipt of Food Stamps for individuals enrolled in unlicensed Faith Based Drug Rehab Centers

Stanley-

As we discussed, the FNS staff have drafted a white paper which outlines the statutory and regulatory barrier which may be encountered by Food Stamp recipients who are enrolled in unlicensed drug rehab programs.

As I indicated on the phone, these barriers were not designed with faith based programs in mind. They were designed to prevent 'double dipping' by Food Stamp recipients who have been institutionalized.

While we are willing to work with you and your office to modify them in the upcoming Farm Bill, there may be a reasonable amount of flexibility in light of the fact that these programs are being 'caught' by the FS regs and were not the focus of the regs.

We are more than willing to work with any faith based programs that believe that they have been inadvertently caught by some of these provisions to see if/how they can empower their program participants to continue to access the FS program while enrolled in drug rehab programs.

It is my understanding that you will forward this information to Don. If you have any questions, please do not hesitate to contact me at 202-720-7711. I look forward to working with you on this issue.

I would greatly appreciate it if you would confirm your receipt of this e-mail.

Thanks,

SBM

- FAITH&DRUG-REHAB-5-23.doc

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FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Memorandum	Enforcement of Executive Order 13166 - To: Carl H. Esbeck - From: Merrily A. Friedlander	2	06/25/2001	P5;

This marker identifies the original location of the withdrawn item listed above. For a complete list of items withdrawn from this folder, see the Withdrawal/Redaction Sheet at the front of the folder.

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FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Email	[Email] - To: Don R. Willett - From: Aquiles F. Suarez	1	06/21/2001	P5;

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This Document was withdrawn on 5/2/2012 by JZ

Guest Comment

On NRO

Faith-based Translation

No church can comply with EO 13166.

By Jim Boulet Jr., executive director, English First.
June 21, 2001 1:55 p.m.

E-mail Jim
Printer-Friendly
E-mail a Friend

President Bush is determined to make religious organizations eligible for federal funds. Not unexpectedly, the ACLU is militantly opposed to the very idea. The funny thing is, if the ACLU wanted to ruin every religious organization in America, it would insist Congress pass H.R. 7 in its current form.

You see, H.R. 7 contains a linguistic time bomb that can be used against any religious organization that accepts federal money: "Nothing in this section alters the duty of a religious organization to comply with the nondiscrimination provisions in [T]itle VI of the Civil Rights Act of 1964."

Readers of Neil Seeman's June 20th NRO column on linguistic extinction learned that "we are down to about 6,800 [languages] today."

But thanks to Executive Order 13166, a tiny church-run soup kitchen or homeless shelter must be prepared to provide a translation into any of those 6,800 languages on demand if it receives a dime of federal money or any donated federal property.

Quoting from the General Services Administration Office of Civil Rights's Limited English Proficiency [LEP] Policy Guidance: "those who serve a few [LEP persons] are still subject to the requirements of Title VI of the Civil Rights Act of 1964 and Executive Order 13166."

Any religious organization desiring federal money would do well to first meditate upon some of the "Examples of problem areas" from this *Policy Guidance*:

> Providing services and/or benefits to LEP persons that are more limited in scope or lower in quality than those provided to other individuals; subjecting LEP persons to unreasonable delays; limiting participation in a recipient's program(s) or activities on the basis of English proficiency; providing services and/or benefits to LEP persons that are not as effective as those provided to persons proficient in English; failing to inform LEP persons of the right to receive free interpreter services; or requiring LEP persons to provide their own interpreter.

Keep in mind that no actual person need show up at the organization's front door to trigger these linguistic obligations: "Vital documents must be translated when a significant number or percentage of the population eligible to be served, or likely to be directly affected by the recipient's program(s) or activities, seeks services or information in a language other than English [emphasis added]."

"Vital documents" are defined as any document that "contains information that is critical for accessing the recipient's program(s) and/or activities, or is required by law."

While the GSA admits "that it may sometimes be difficult to draw a distinction between vital and non-vital documents, particularly when considering outreach or awareness documents," it still insists that "lack of awareness regarding the existence of a particular program may effectively deny LEP persons meaningful access." This opens the door to all sorts of litigation based on a failure to provide a rarely requested form in some obscure tongue at a moment's notice.

And even printing up a vast array of documents in hundreds or thousands of languages will not preclude

MIDLOTHIAN, VA — The playground-pacification crusade reminds us that our schools are run by hysterics. By Dave Shiflett. 6/21/01 9:00 a.m.

Jefferson Met Hemings in Vietnam
NEW YORK — A tangled web. By Ann Coulter. 6/21/01 8:40 a.m.

A Real Racket
WASHINGTON, DC — Drop the lawsuit immediately. By Jacob Sullum. 6/21/01 8:25 a.m.

legal trouble: "[T]here may be instances where simply providing written translation may not be providing meaningful access to persons with LEP in the same manner as that provided to non-LEP beneficiaries."

These requirements even extend to those "whose language does not exist in written form." And "verbatim translation of materials" may be insufficient, as would be interpreters who lack "sensitivity to the LEP person's culture."

While many religious organizations feel obligated to serve everyone and have been more than willing to provide translations, few are equipped to handle such sweeping linguistic mandates in exchange for a relative pittance of federal funds.

It is also essential to understand that "limited English proficiency" is defined by the person demanding services and that person is the ultimate authority on whether the federally funded program has met its obligation.

Thus if the ACLU were diabolically clever, it would insist that H.R. 7 be passed as written and then send "testers" to federally funded church-run programs. Those testers would claim to only understand languages like Maori, Hmong, or Vanuatau. They could then file a complaint with the federal government and trigger all kinds of costly administrative and legal proceedings. (Complaints of this sort are already being filed. See "Memo to John DiIulio".

Of course, if President Bush really wanted to make sure his charitable-choice proposal helped religious organizations reach more needy people, he would repeal EO 13166. Because as long as EO 13166 remains the law of the land, a religious organization would be foolish to accept anything from the federal government.

Back to NRO

THE WHITE HOUSE

Office of the Press Secretary
(Aboard Air Force One)

For Immediate Release August 11, 2000

EXECUTIVE ORDER

13166

IMPROVING ACCESS TO SERVICES FOR PERSONS WITH LIMITED ENGLISH PROFICIENCY

By the authority vested in me as President by the Constitution and the laws of the United States of America, and to improve access to federally conducted and federally assisted programs and activities for persons who, as a result of national origin, are limited in their English proficiency (LEP), it is hereby ordered as follows:

Section 1. Goals.

The Federal Government provides and funds an array of services that can be made accessible to otherwise eligible persons who are not proficient in the English language. The Federal Government is committed to improving the accessibility of these services to eligible LEP persons, a goal that reinforces its equally important commitment to promoting programs and activities designed to help individuals learn English. To this end, each Federal agency shall examine the services it provides and develop and implement a system by which LEP persons can meaningfully access those services consistent with, and without unduly burdening, the fundamental mission of the agency. Each Federal agency shall also work to ensure that recipients of Federal financial assistance (recipients) provide meaningful access to their LEP applicants and beneficiaries. To assist the agencies with this endeavor, the Department of Justice has today issued a general guidance document (LEP Guidance), which sets forth the compliance standards that recipients must follow to ensure that the programs and activities they normally provide in English are accessible to LEP persons and thus do not discriminate on the basis of national origin in violation of title VI of the Civil Rights Act of 1964, as amended, and its implementing regulations. As described in the LEP Guidance, recipients must take reasonable steps to ensure meaningful access to their programs and activities by LEP persons.

Sec. 2. Federally Conducted Programs and Activities.

Each Federal agency shall prepare a plan to improve access to its federally conducted programs and activities by eligible LEP persons. Each plan shall be consistent with the standards set forth in the LEP Guidance, and shall include the steps the agency will take to ensure that eligible LEP persons can meaningfully access the agency's programs and activities. Agencies shall develop and begin to implement these plans within 120 days of the date of this order, and shall send copies of their plans to the Department of Justice, which shall serve as the central repository of the agencies' plans.

Sec. 3. Federally Assisted Programs and Activities.

Each agency providing Federal financial assistance shall draft title VI guidance specifically tailored to its recipients that is consistent with the LEP Guidance issued by the Department of Justice. This agency-specific guidance shall detail how the general standards established in the LEP Guidance will be applied to the agency's recipients. The agency-specific guidance shall take into account the types of services provided by the recipients, the individuals served by the recipients, and other factors set out in the LEP Guidance. Agencies that already have developed title VI guidance that the Department of Justice determines is consistent with the LEP Guidance shall examine their existing guidance, as well as their programs and activities, to determine if additional guidance is necessary to comply with this order. The Department of Justice shall consult with the agencies in creating their guidance and, within 120 days of the date of this order, each agency shall submit its specific guidance to the Department of Justice for review and approval. Following approval by the Department of Justice, each agency shall publish its guidance document in the Federal Register for public comment.

Sec. 4. Consultations.

In carrying out this order, agencies shall ensure that stakeholders, such as LEP persons and their representative organizations, recipients, and other appropriate individuals or entities, have an adequate opportunity to provide input. Agencies will evaluate the particular needs of the LEP persons they and their recipients serve and the burdens of compliance on the agency and its recipients. This input from stakeholders will assist the agencies in developing an approach to ensuring meaningful access by LEP persons that is practical and effective, fiscally responsible, responsive to the particular circumstances of each agency, and can be readily implemented.

Sec. 5. Judicial Review.

This order is intended only to improve the internal management of the executive branch and does not create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies, its officers or employees, or any person.

WILLIAM J. CLINTON

THE WHITE HOUSE,
August 11, 2000.

# # #

Guest Comment
On NRO

Memo to John DiIulio

A first step.

By Jim Boulet Jr., executive director, English First.
April 9, 2001 8:30 a.m.

An emergency shelter for homeless men in Washington, D.C. is under fire for its lack of Spanish-speaking personnel. The case of La Casa shelter should terrify every advocate of encouraging churches to accept federal funds to conduct programs for the needy.

Printer-Friendly
E-mail Jim
E-mail a Friend

Najiya Shana'a, executive director of Neighbors' Consejo told the *Washington Post* that the lack of bilingual services at La Casa shelter was discrimination: "[e] verything was geared to the English speaker." Another Neighbors' Consejo staff member, Lourdes Carazo, complained: "late at night, they do not staff the place with bilingual workers, so if a Latin person is in crisis, they cannot help."

Manuel Cordova, an immigrant from El Salvador complained that "the people who work there prefer blacks." One La Casa employee, Gregory Williams, was criticized by a "formerly homeless" El Salvadoran for "speak[ing] [English] really, really quickly."

Complaints of discrimination in anti-poverty programs are almost as old as the Christian church: "And in those days . . . there arose a murmuring of the Grecians against the Hebrews, because their widows were neglected in the daily ministration" (Acts 6:1 KJV).

But thanks to Executive Order 13166, complaints of this sort are now a federal matter. According to the regulations which accompany EO 13166, every resident of the United States has the right to be served by any government-funded program in the language or dialect of his choice. That person (or his lawyer) is also the sole judge of whether any particular program has met its new linguistic obligations.

Given that America's poverty-plagued inner cites are home to numerous immigrants, both legal and illegal, the probability of language complaints is rather high. Government bureaucrats have not erred on the side of common sense on language matters. The Department of Health and Human Services has ordered the Maine Medical Center to function in a minimum of nine languages at all times — three more official tongues than the United Nations.

Churches and nonprofit organizations may soon find themselves haggling with hostile lawyers over the proper translation of program materials into Urdu or Bengali in order to receive a few dollars from the federal government.

La Casa shelter is operated by the Coalition for the Homeless, a group which receives federal funds, including a specific grant of $525,600 from the Department of Housing and Urban Development. (That particular grant expired last September.) Given these complaints by Spanish-speakers, the Coalition for the Homeless may well find itself under federal investigation.

Even organizations which have had no trouble complying with all sorts of federal regulations, such as Catholic Charities USA, face a newly hostile regulatory climate, thanks to EO 13166. Any nonprofit group which accepts federal funds is now just one complaint by a Mandarin, Spanish, or Farsi speaker from losing all its federal funding. (Keep in mind that ideological opponents of any particular organization can easily recruit "testers" to generate language discrimination complaints.)

If John DiIulio wants to see his dream of federally funded faith-based programs bear fruit, he would do well to encourage President Bush to repeal EO 13166. DiIulio might also ask the Director of Health and Human

Services, Tommy Thompson, to withdraw his department's EO 13166 regulations.

So long as EO 13166 remains on the books, the question is no longer: Can churches accept government funds and still be true to their mission? The question has become: Should anyone dare accept government funds at all?

Back to NRO

Search!

NR Comment

The Official Word

Final Words

There's plenty of reason to celebrate mass linguistic extinction.

By Neil Seeman, NRO associate editor
June 20, 2001 9:00 a.m.

Another day, another dead language. A rousing new report by researcher Payal Sampat of the Worldwatch Institute bemoans the "cultural homogeneity" spreading across the Earth as thousands of human languages head toward extinction.

"Today," writes Sampat, "the world's speech is increasingly homogenized. The 15 most common languages are now on the lips of half the world's people; the top 100 languages are used by 90 percent of humanity." Sampat's is just the latest nostalgia for "linguistic diversity" (the kissing cousin of "biological diversity") to have surfaced in the academic press. Inevitably such articles drive their authors to the brink of bathos: The author himself is almost always a "victim" of cultural imperialism, his village's unique dialect of Farsi or some other distinct tongue having been snuffed out by the march of civilization.

"In Bombay, where I grew up," says Sampat, "I used these languages everyday. To get by on the streets, to get directions, to interact with people — I had to be able to speak Marathi." But he "sensed from a very early age that Kutchi wasn't useful in any obvious way." Alas, he abandoned the language of his ancestors, "and chose abandoned the language of his ancestors," and chose instead to operate in the linguistic mainstream."

Sampat is not alone. Whatever the original number of languages in existence at the end of the Ice Age (estimated in the tens of thousands), we are down to about 6,800 today. Nearly half of those languages are now spoken by fewer than 2,500 people. At the current rate of decline, linguists estimate that, by the end of this century, at least half of the world's present languages will have disappeared. Michael Krauss, a linguist at the Alaskan Native Language Center, thinks things are even worse than that; he estimates that only 600 of the world's languages are "safe" from extinction, insofar as they are still being taught to children.

What's especially interesting about the current rate of linguistic attrition is that it vastly exceeds that of the nineteenth and early twentieth centuries, when anti-colonial writers decried British imperialism and the culturally repressive policies of the U.S. Bureau of Indian Affairs. Nowadays, in spite of bilingual-education programs and "diversity" initiatives in the public schools, most aboriginal languages in North America are on a downward slalom course toward oblivion.

And to this I say: "Hooray!" Why so? Because today we can chalk up trends in cultural assimilation almost exclusively to increased labor mobility and modern communications technologies, not to farmers stomping over hunter-gatherers, or to more venomous tribes overriding weaker ones by force. What's more, we now have indubitable evidence that government efforts to shore up dying languages are doomed to fail. Most of the world's books, newspapers, and e-mails are written in English, which is now spoken by more people as a second language (350 million) than as a native tongue (322 million). This is reason to celebrate. Just like immigrants who trade their ancestral culture to reap the financial promise of a new land, speakers of dying tongues are rational economic actors: They have traded in their indigenous language in order to participate in the global economy.

Too many folks on the cultural Left, however, refuse to treat human beings as rational agents. My home country of Canada, awash in failed leftist policies, is a case in point. Canadian native leaders recently called the extinction of "First Nations" dialects a "state of emergency," and lobbied the federal Liberals to inaugurate programs to resuscitate those ancestral

MIDLOTHIAN, VA — The playground-pacification crusade reminds us that our schools are run by hysterics. By Dave Shiflett. 6/21/01 9:00 a.m.

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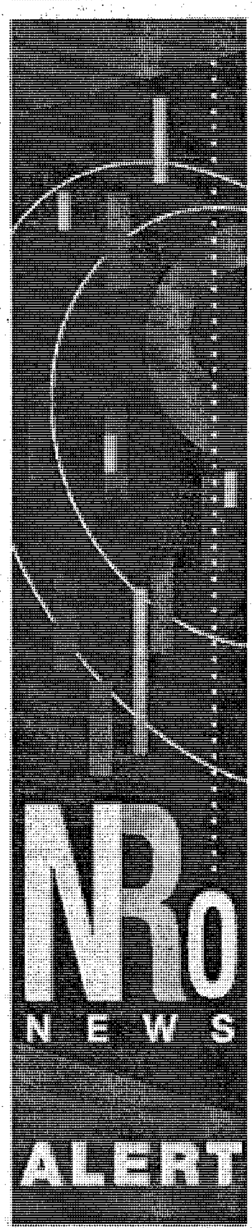

inaugurate programs to resuscitate these ancestral tongues. The Canadian Heritage department has committed tens of millions of dollars in "language preservation" to native communities. And nobody beats the province of Quebec when it comes to linguistic protectionism: Last month, the ever-vigilant office de la langue française charged Stanley and Muriel Reid, fifth-generation farmers from Godmanchester, Que., for the crime of creating an English-only website that sells maple syrup.

Should we put people in jail on the altar of "linguistic continuity"? For that is the logical consequence of linguistic preservationism.

Anthropologists try to skate around this fact with hyperbole and theatrics; the scholar Jared Diamond says the most common way to see a language disappear "is to kill almost all its speakers." This may have been true in the 1800s, but not today. And what about the argument that language loss hurts our ability to understand our past? Ironically, private enterprise and the Internet, so often blamed for hastening globalization and Western imperialism, may hold the answer. SIL International, a Texas company with a huge linguistics database, catalogues more than 6,700 languages across 228 countries. The website of the Yamada Language Center at the University of Oregon provides connections to online learning facilities for 115 dying and dead languages, including Basque, Navajo, and Old English. Ancient documents written in these languages will forever be accessible to decipherment. Even unwritten languages can now be transliterated phonetically and stored on audiotape.

All of us, as infants, once spoke a unique dialect, a mixture of parental language, baby talk, misarticulation, and inaccurate syntax. When we grow up, we leave our "mother tongue" behind, even though its echoes remain with us and move us at unexpected moments. Emotion aside, we forego the embrace of childhood and move on to learn the language of our peer group. When we become grown-ups, we "lay aside childish things." And so it is with dead languages. They simply outgrow their usefulness.

Back to NRO

Guest Comment
On NRO

To: Don W,) SCT — Well?

Memo to John DiIulio

A first step.

By Jim Boulet Jr., executive director, English First.
April 9, 2001 8:30 a.m.

An emergency shelter for homeless men in Washington, D.C. is under fire for its lack of Spanish-speaking personnel. The case of La Casa shelter should terrify every advocate of encouraging churches to accept federal funds to conduct programs for the needy.

Printer-Friendly
E-mail Jim
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Najiya Shana'a, executive director of Neighbors' Consejo told the *Washington Post* that the lack of bilingual services at La Casa shelter was discrimination: "[e]verything was geared to the English speaker." Another Neighbors' Consejo staff member, Lourdes Carazo, complained: "late at night, they do not staff the place with bilingual workers, so if a Latin person is in crisis, they cannot help."

Manuel Cordova, an immigrant from El Salvador complained that "the people who work there prefer blacks." One La Casa employee, Gregory Williams, was criticized by a "formerly homeless" El Salvadoran for "speak[ing] [English] really, really quickly."

Complaints of discrimination in anti-poverty programs are almost as old as the Christian church: "And in those days . . . there arose a murmuring of the Grecians against the Hebrews, because their widows were neglected in the daily ministration" (Acts 6:1 KJV).

But thanks to Executive Order 13166, complaints of this sort are now a federal matter. According to the regulations which accompany EO 13166, every resident

Tax"
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- I Am Woman, Hear Me Whine
4/3/01

- 69 Reasons Why clinton Wasn't a Centrist
4/3/01

regulations which accompany EO 13166, every resident of the United States has the right to be served by any government-funded program in the language or dialect of his choice. That person (or his lawyer) is also the sole judge of whether any particular program has met its new linguistic obligations.

Given that America's poverty-plagued inner cites are home to numerous immigrants, both legal and illegal, the probability of language complaints is rather high. Government bureaucrats have not erred on the side of common sense on language matters. The Department of Health and Human Services has ordered the Maine Medical Center to function in a minimum of nine languages at all times — three more official tongues than the United Nations.

Churches and nonprofit organizations may soon find themselves haggling with hostile lawyers over the proper translation of program materials into Urdu or Bengali in order to receive a few dollars from the federal government.

La Casa shelter is operated by the Coalition for the Homeless, a group which receives federal funds, including a specific grant of $525,600 from the Department of Housing and Urban Development. (That particular grant expired last September.) Given these complaints by Spanish-speakers, the Coalition for the Homeless may well find itself under federal investigation.

Even organizations which have had no trouble complying with all sorts of federal regulations, such as Catholic Charities USA, face a newly hostile regulatory climate, thanks to EO 13166. Any nonprofit group which accepts federal funds is now just one complaint by a Mandarin, Spanish, or Farsi speaker from losing all its federal funding. (Keep in mind that ideological opponents of any particular organization can easily recruit "testers" to generate language discrimination complaints.)

If John DiIulio wants to see his dream of federally funded faith-based programs bear fruit, he would do well to encourage President Bush to repeal EO 13166. DiIulio might also ask the Director of Health and Human Services, Tommy Thompson, to withdraw his department's EO 13166 regulations.

So long as EO 13166 remains on the books, the question is no longer: Can churches accept government funds and still be true to their mission? The question has become: Should anyone dare accept government funds at all?

NEW YORK — I am anti-antisemite. But I have been irritated by Jewish sensibilities. By John Derbyshire. 4/10/01 9:40 a.m.

Exam Time!
WASHINGTON, DC — The latest hilarious caper from the lovable *Washington Post*. By Michael Ledeen. 4/10/01 9:20 a.m.

Inherit the Wind
NEW YORK — "I was Scarlett O'Hara's Jewish lover." By Neil Seeman. 4/10/01 9:20 a.m.

Slaying the RINO
WASHINGTON, DC — Senators Chafee, Jeffords, and Specter are Republicans in name only. By Stephen Moore. 4/10/01 9:00 a.m.

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[Federal Register: August 16, 2000 (Volume 65, Number 159)]
[Notices]
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[DOCID:fr16au00-136]

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DEPARTMENT OF JUSTICE

Enforcement of Title VI of the Civil Rights Act of 1964--National Origin Discrimination Against Persons With Limited English Proficiency; Policy Guidance

AGENCY: Civil Rights Division, Department of Justice.

ACTION: Policy guidance document.

SUMMARY: This Policy Guidance Document entitled ``Enforcement of Title VI of the Civil Rights Act of 1964 `` National Origin Discrimination Against Persons with Limited English Proficiency (LEP Guidance)'' is being issued pursuant to authority granted by Executive Order 12250 and Department of Justice Regulations. It addresses the application of Title VI's prohibition on national origin discrimination when information is provided only in English to persons with limited English proficiency. This policy guidance does not create new obligations, but rather, clarifies existing Title VI responsibilities. The purpose of this document is to set forth general principles for agencies to apply in developing guidelines for services to individuals with limited English proficiency. The Policy Guidance Document appears below.

DATES: Effective August 11, 2000.

ADDRESSES: Coordination and Review Section, Civil Rights Division, P.O. Box 66560, Washington, D.C. 20035-6560.

FOR FURTHER INFORMATION CONTACT: Merrily Friedlander, Chief, Coordination and Review Section, Civil Rights Division, (202) 307-2222.

Helen L. Norton,
Counsel to the Assistant Attorney General, Civil Rights Division.

Office of the Assistant Attorney General

Washington, D.C. 20530

August 11, 2000.
TO: Executive Agency Civil Rights Officers
FROM: Bill Lann Lee, Assistant Attorney General, Civil Rights Division
SUBJECT: Policy Guidance Document: Enforcement of Title VI of the Civil Rights Act of 1964--National Origin Discrimination Against Persons With Limited English Proficiency (``LEP Guidance'')

This policy directive concerning the enforcement of Title VI of the Civil Rights Act of 1964, 42 U.S.C. Secs. 2000d et seq., as amended, is being issued pursuant to the authority granted by Executive Order No. 12250 \1\ and Department of Justice regulations.\2\ It addresses the application to recipients of federal financial assistance of Title VI's prohibition on national origin discrimination when information is provided only in English to persons who do not understand English. This policy guidance does not create new obligations but, rather, clarifies existing Title VI responsibilities.

\1\ 42 U.S.C. Sec. 2000d-1 note.
\2\ 28 C.F.R. Sec. 0.51.

Department of Justice Regulations for the Coordination of Enforcement of Non-discrimination in Federally Assisted Programs (Coordination Regulations), 28 C.F.R. 42.401 et seq., direct agencies to ``publish title VI guidelines for each type of program to which they extend financial assistance, where such guidelines would be appropriate to provide detailed information on the requirements of Title VI.'' 28 CFR Sec. 42.404(a). The purpose of this document is to set forth general principles for agencies to apply in developing such guidelines for services to individuals with limited English proficiency (LEP). It is expected that, in developing this guidance for their federally assisted programs, agencies will apply these general principles, taking into account the unique nature of the programs to which they provide federal financial assistance.
A federal aid recipient's failure to assure that people who are not proficient in English can effectively participate in and benefit from programs and activities may constitute national origin discrimination prohibited by Title VI. In order to assist agencies that grant federal financial assistance in ensuring that recipients of federal financial assistance are complying with their responsibilities, this policy directive addresses the appropriate compliance standards. Agencies should utilize the standards set forth in this Policy Guidance Document to develop specific criteria applicable to review the programs and activities for which they offer financial assistance. The Department of Education \3\ already has established policies, and the Department of

Health and Human Services (HHS) \4\ has been developing guidance in a manner consistent with Title VI and this Document, that applies to their specific programs receiving federal financial assistance.

\3\ Department of Education policies regarding the Title VI responsibilities of public school districts with respect to LEP children and their parents are reflected in three Office for Civil Rights policy documents: (1) the May 1970 memorandum to school districts, ``Identification of Discrimination and Denial of Services on the Basis of National Origin," (2) the December 3, 1985, guidance document, ``The Office for Civil Rights' Title VI Language Minority Compliance Procedures," and (3) the September 1991 memorandum, ``Policy Update on Schools Obligations Toward National Origin Minority Students with Limited English Proficiency." These documents can be found at the Department of Education website at www.ed.gov/office/OCR.
\4\ The Department of Health and Human Services is issuing policy guidance titled: ``Title VI Prohibition Against National Origin Discrimination As It Affects Persons With Limited English Proficiency." This policy addresses the Title VI responsibilities of HHS recipients to individuals with limited English proficiency.

Background

Title VI of the Civil Rights Act of 1964 prohibits recipients of federal financial assistance from discriminating against or otherwise excluding individuals on the basis of race, color, or national origin in any of their activities. Section 601 of Title VI, 42 U.S.C. Sec. 2000d, provides:

No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

The term ``program or activity" is broadly defined. 42 U.S.C. Sec. 2000d-4a.
Consistent with the model Title VI regulations drafted by a Presidential task force in 1964, virtually every executive agency that grants federal financial assistance has promulgated regulations to implement Title VI. These regulations prohibit recipients from ``restrict[ing] an individual in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service, financial aid, or other benefit under the program" and ``utiliz[ing] criteria or methods of administration which have the effect of subjecting individuals to discrimination" or have ``the effect of defeating or substantially impairing accomplishment of the objectives

of the program as respects individuals of a particular race, color, or national origin."
In Lau v. Nichols, 414 U.S. 563 (1974), the Supreme Court interpreted these provisions as requiring that a federal financial recipient take steps to ensure that language barriers did not exclude LEP persons from effective participation in its benefits and services. Lau involved a group of students of Chinese origin who did not speak English to whom the recipient provided the same services--an education provided solely in English--that it provided students who did speak English. The Court held that, under these circumstances, the school's practice violated the Title VI prohibition against discrimination on

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the basis of national origin. The Court observed that ``[i]t seems obvious that the Chinese-speaking minority receive fewer benefits than the English-speaking majority from respondents' school system which denies them a meaningful opportunity to participate in the educational program--all earmarks of the discrimination banned by" the Title VI regulations.\5\ Courts have applied the doctrine enunciated in Lau both inside and outside the education context. It has been considered in contexts as varied as what languages drivers' license tests must be given in or whether material relating to unemployment benefits must be given in a language other than English.\6\

\5\ 414 U.S. at 568. Congress manifested its approval of the Lau decision requirements concerning the provision of meaningful education services by enacting provisions in the Education Amendments of 1974, Pub. L. No. 93-380, Secs. 105, 204, 88 Stat. 503-512, 515 codified at 20 U.S.C. 1703(f), and the Bilingual Education Act, 20 U.S.C. 7401 et seq., which provided federal financial assistance to school districts in providing language services.
\6\ For cases outside the educational context, see, e.g., Sandoval v. Hagan, 7 F. Supp. 2d 1234 (M.D. Ala. 1998), affirmed, 197 F.3d 484, (11th Cir. 1999), rehearing and suggestion for rehearing en banc denied, 211 F.3d 133 (11th Cir. Feb. 29, 2000) (Table, No. 98-6598-II), petition for certiorari filed May 30, 2000 (No. 99-1908) (giving drivers' license tests only in English violates Title VI); and Pabon v. Levine, 70 F.R.D. 674 (S.D.N.Y. 1976) (summary judgment for defendants denied in case alleging failure to provide unemployment insurance information in Spanish violated Title VI).

Link Between National Origin And Language

For the majority of people living in the United States, English is their native language or they have acquired proficiency in English.

They are able to participate fully in federally assisted programs and activities even if written and oral communications are exclusively in the English language.

The same cannot be said for the remaining minority who have limited English proficiency. This group includes persons born in other countries, some children of immigrants born in the United States, and other non-English or limited English proficient persons born in the United States, including some Native Americans. Despite efforts to learn and master English, their English language proficiency may be limited for some time.\7\ Unless grant recipients take steps to respond to this difficulty, recipients effectively may deny those who do not speak, read, or understand English access to the benefits and services for which they qualify.

\7\ Certainly it is important to achieve English language proficiency in order to fully participate at every level in American society. As we understand the Supreme Court's interpretation of Title VI's prohibition of national origin discrimination, it does not in any way disparage use of the English language.

Many recipients of federal financial assistance recognize that the failure to provide language assistance to such persons may deny them vital access to services and benefits. In some instances, a recipient's failure to remove language barriers is attributable to ignorance of the fact that some members of the community are unable to communicate in English, to a general resistance to change, or to a lack of awareness of the obligation to address this obstacle.

In some cases, however, the failure to address language barriers may not be simply an oversight, but rather may be attributable, at least in part, to invidious discrimination on the basis of national origin and race. While there is not always a direct relationship between an individual's language and national origin, often language does serve as an identifier of national origin.\8\ The same sort of prejudice and xenophobia that may be at the root of discrimination against persons from other nations may be triggered when a person speaks a language other than English.

\8\ As the Supreme Court observed, ``[l]anguage permits an individual to express both a personal identity and membership in a community, and those who share a common language may interact in ways more intimate than those without this bond.'' Hernandez v. New York, 500 U.S. 352, 370 (1991) (plurality opinion).

Language elicits a response from others, ranging from admiration and respect, to distance and alienation, to ridicule and scorn. Reactions of the latter type all too often result from or initiate racial hostility * * *. It may well be, for certain ethnic groups and in some communities, that proficiency in a particular language, like skin color, should be treated as a surrogate for race under an equal protection analysis.\9\

\9\ Id. at 371 (plurality opinion).

While Title VI itself prohibits only intentional discrimination on the basis of national origin,\10\ the Supreme Court has consistently upheld agency regulations prohibiting unjustified discriminatory effects.\11\ The Department of Justice has consistently adhered to the view that the significant discriminatory effects that the failure to provide language assistance has on the basis of national origin, places the treatment of LEP individuals comfortably within the ambit of Title VI and agencies' implementing regulations.\12\ Also, existing language barriers potentially may be rooted in invidious discrimination. The Supreme Court in Lau concluded that a recipient's failure to take affirmative steps to provide ``meaningful opportunity'' for LEP individuals to participate in its programs and activities violates the recipient's obligations under Title VI and its regulations.

\10\ Alexander v. Choate, 469 U.S. 287, 293 (1985).
\11\ Id. at 293-294; Guardians Ass'n v. Civil Serv. Comm'n, 463 U.S. 582, 584 n.2 (1983) (White, J.), 623 n.15 (Marshall, J.), 642-645 (Stevens, Brennan, Blackmun, JJ.); Lau v. Nichols, 414 U.S. at 568; id. at 571 (Stewart, J., concurring in result). In a July 24, 1994, memorandum to Heads of Departments and Agencies that Provide Federal Financial Assistance concerning ``Use of the Disparate Impact Standard in Administrative Regulations Under Title VI of the Civil Rights Act of 1964,'' the Attorney General stated that each agency ``should ensure that the disparate impact provisions of your regulations are fully utilized so that all persons may enjoy equally the benefits of federally financed programs.''
\12\ The Department's position with regard to written language assistance is articulated in 28 CFR Sec. 42.405(d)(1), which is contained in the Coordination Regulations, 28 CFR Subpt. F, issued in 1976. These Regulations ``govern the respective obligations of Federal agencies regarding enforcement of title VI.'' 28 CFR Sec. 42.405. Section 42.405(d)(1) addresses the prohibitions cited by the Supreme Court in Lau.

All Recipients Must Take Reasonable Steps To Provide Meaningful Access

Recipients who fail to provide services to LEP applicants and beneficiaries in their federally assisted programs and activities may be discriminating on the basis of national origin in violation of Title

VI and its implementing regulations. Title VI and its regulations require recipients to take reasonable steps to ensure ``meaningful'' access to the information and services they provide. What constitutes reasonable steps to ensure meaningful access will be contingent on a number of factors. Among the factors to be considered are the number or proportion of LEP persons in the eligible service population, the frequency with which LEP individuals come in contact with the program, the importance of the service provided by the program, and the resources available to the recipient.

(1) Number or Proportion of LEP Individuals

Programs that serve a few or even one LEP person are still subject to the Title VI obligation to take reasonable steps to provide meaningful opportunities for access. However, a factor in determining the reasonableness of a recipient's efforts is the number or proportion of people who will be excluded from the benefits or services absent efforts to remove language barriers. The steps that are reasonable for a recipient who serves one LEP person a year may be different than those expected from a recipient that serves several LEP persons each day. But even those who serve very few LEP persons on an infrequent basis should utilize this balancing analysis to determine whether reasonable steps are

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possible and if so, have a plan of what to do if a LEP individual seeks service under the program in question. This plan need not be intricate; it may be as simple as being prepared to use one of the commercially available language lines to obtain immediate interpreter services.

(2) Frequency of Contact with the Program

Frequency of contacts between the program or activity and LEP individuals is another factor to be weighed. For example, if LEP individuals must access the recipient's program or activity on a daily basis, e.g., as they must in attending elementary or secondary school, a recipient has greater duties than if such contact is unpredictable or infrequent. Recipients should take into account local or regional conditions when determining frequency of contact with the program, and should have the flexibility to tailor their services to those needs.

(3) Nature and Importance of the Program

The importance of the recipient's program to beneficiaries will affect the determination of what reasonable steps are required. More affirmative steps must be taken in programs where the denial or delay of access may have life or death implications than in programs that are not as crucial to one's day-to-day existence. For example, the obligations of a federally assisted school or hospital differ from those of a federally assisted zoo or theater. In assessing the effect on individuals of failure to provide language services, recipients must consider the importance of the benefit to individuals both immediately and in the long-term. A decision by a federal, state, or local entity to make an activity compulsory, such as elementary and secondary school attendance or medical inoculations, serves as strong evidence of the program's importance.

(4) Resources Available

The resources available to a recipient of federal assistance may have an impact on the nature of the steps that recipients must take. For example, a small recipient with limited resources may not have to take the same steps as a larger recipient to provide LEP assistance in programs that have a limited number of eligible LEP individuals, where contact is infrequent, where the total cost of providing language services is relatively high, and/or where the program is not crucial to an individual's day-to-day existence. Claims of limited resources from large entities will need to be well-substantiated.\13\

\13\ Title VI does not require recipients to remove language barriers when English is an essential aspect of the program (such as providing civil service examinations in English when the job requires person to communicate in English, see Frontera v. Sindell, 522 F.2d 1215 (6th Cir. 1975)), or there is another ``substantial legitimate justification for the challenged practice." Elston v. Talladega County Bd. of Educ., 997 F.2d 1394, 1407 (11th Cir. 1993). Similar balancing tests are used in other nondiscrimination provisions that are concerned with effects of an entity's actions. For example, under Title VII of the Civil Rights Act of 1964, employers need not cease practices that have a discriminatory effect if they are ``consistent with business necessity" and there is no ``alternative employment practice" that is equally effective. 42 U.S.C. Sec. 2000e-2(k). Under Section 504 of the Rehabilitation Act, 29 U.S.C. Sec. 794, recipients do not need to provide access to persons with disabilities if such steps impose an undue burden on the recipient. Alexander v. Choate, 469 U.S. at 300. Thus, in situations where all of the factors identified in the text are at their nadir, it may be ``reasonable" to take no affirmative steps to provide further access.

Written vs. Oral Language Services

In balancing the factors discussed above to determine what reasonable steps must be taken by recipients to provide meaningful access to each LEP individual, agencies should particularly address the appropriate mix of written and oral language assistance. Which documents must be translated, when oral translation is necessary, and whether such services must be immediately available will depend upon the factors previously mentioned.\14\ Recipients often communicate with the public in writing, either on paper or over the Internet, and written translations are a highly effective way of communicating with large numbers of people who do not speak, read or understand English. While the Department of Justice's Coordination Regulation, 28 CFR Sec. 42.405(d)(1), expressly addresses requirements for provision of written language assistance, a recipient's obligation to provide meaningful opportunity is not limited to written translations. Oral communication between recipients and beneficiaries often is a necessary part of the exchange of information. Thus, a recipient that limits its language assistance to the provision of written materials may not be allowing LEP persons ``effectively to be informed of or to participate in the program'' in the same manner as persons who speak English.

\14\ Under the four-part analysis, for instance, Title VI would not require recipients to translate documents requested under a state equivalent of the Freedom of Information Act or Privacy Act, or to translate all state statutes or notices of rulemaking made generally available to the public. The focus of the analysis is the nature of the information being communicated, the intended or expected audience, and the cost of providing translations. In virtually all instances, one or more of these criteria would lead to the conclusion that recipients need not translate these types of documents.

In some cases, ``meaningful opportunity'' to benefit from the program requires the recipient to take steps to assure that translation services are promptly available. In some circumstances, instead of translating all of its written materials, a recipient may meet its obligation by making available oral assistance, or by commissioning written translations on reasonable request. It is the responsibility of federal assistance-granting agencies, in conducting their Title VI compliance activities, to make more specific judgments by applying their program expertise to concrete cases.

Conclusion

This document provides a general framework by which agencies can determine when LEP assistance is required in their federally assisted programs and activities and what the nature of that assistance should be. We expect agencies to implement this document by issuing guidance documents specific to their own recipients as contemplated by the Department of Justice Coordination Regulations and as HHS and the Department of Education already have done. The Coordination and Review Section is available to assist you in preparing your agency-specific guidance. In addition, agencies should provide technical assistance to their recipients concerning the provision of appropriate LEP services.

[FR Doc. 00-20867 Filed 8-15-00; 8:45 am]
BILLING CODE 4410-13-P

THE WHITE HOUSE
WASHINGTON

OFFICE OF CABINET AFFAIRS

FACSIMILE TRANSMITTAL SHEET

TO: John DiIulio Jr.	FROM: Craig Felner, Associate Director
AGENCY/ORGANIZATION: OK Michelle	DATE: ~~4-2-01~~ ~~4/24/01~~ 6/8/01
FAX NUMBER: 6-7819	TOTAL NO. OF PAGES INCLUDING COVER: 11
PHONE NUMBER:	SENDER'S PHONE NUMBER: (202) 456-7007
RE:	SENDER'S FAX NUMBER: (202) 456-2525

☐ URGENT ☐ FOR REVIEW ☐ PLEASE COMMENT ☐ PLEASE REPLY

NOTES/COMMENTS:

Attached is a media referral from USDA related to the your office. Please give Dawn Reilley a call back when you get a second on how to handle. Thanks. Her # is 720-7711.

(If all pages are not received, please call (202) 456-2572)

MEDIA REFERRAL

TO: Jean Daniel/Christine Carpino

FROM: Jeff Greenfield **DATE:** 2/22/01

NEWS ORGANIZATION: Newhouse News Service

REPORTER: Mark O'Keefe **PHONE:** 202-383-7857

REPORTER'S DEADLINE: COB 2/26/01.

SUBJECT: Faith-based Organizations

REPORTER'S QUESTIONS:

Newhouse News Service owns approximately 30 mid-size newspapers such as the Cleveland Plain Dealer and the Portland Oregonian. The reporter is writing an article focusing on the President's faith-based initiative. The reporter has been in Memphis researching this story and will likely use the Memphis Union Mission as an example of the problems that could exist with the initiative. The Memphis Union Mission was terminated from receiving TEFAP commodities because they required recipients to attend a religious service prior to the distribution of commodities, which violates USDA regulations prohibiting such activities.

1) The reporter requested a copy of the regulation regarding TEFAP and the giving of commodities to organizations such as Memphis Union Mission and other distribution sites. (see attached)

2) In the Bush Administration, will the guidelines change to allow faith-based organizations to receive TEFAP commodities while requiring participation in faith-based activities?

3) The reporter would like clarification on the Executive Order for faith-based organizations. In particular, the reporter is interested in knowing which Federal organizations are named in the order and what role will USDA programs have in this initiative?

with the State agency pursuant to §251.2(c), provided that each such agency must be reviewed no less frequently than once every four years; and

(ii) An annual review of one-tenth or 20, whichever is fewer, of all eligible recipient agencies which receive TEFAP commodities and/or administrative funds pursuant to an agreement with another eligible recipient agency. Reviews must be conducted, to the maximum extent feasible, simultaneously with actual distribution of commodities and/or meal service, and eligibility determinations. If applicable, State agencies must develop a system for selecting eligible recipient agencies for review that ensures deficiencies in program administration are detected and resolved in an effective and efficient manner.

(3) Each review must encompass, as applicable, eligibility determinations, food ordering procedures, storage and warehousing practices, inventory controls, approval of distribution sites, reporting and recordkeeping requirements, and civil rights.

(4) Upon concurrence by FNS, reviews of eligible recipient agencies which have been conducted by FNS Regional Office personnel may be incorporated into the minimum coverage required by paragraph (e)(2) of this section.

(5) If deficiencies are disclosed through the review of an eligible recipient agency, the State agency must submit a report of the review findings to the eligible recipient agency and ensure that corrective action is taken to eliminate the deficiencies identified.

(f) *Limitation on unrelated activities.* (1) Activities unrelated to the distribution of TEFAP foods or meal service may be conducted at distribution sites as long as:

(i) The person(s) conducting the activity makes clear that the activity is not part of TEFAP and is not endorsed by the Department (impermissible activities include information not related to TEFAP placed in or printed on bags, boxes, or other containers in which commodities are distributed). Recipes or information about commodities, dates of future distributions, hours of operations, or other Federal, State, or local government programs or services for the needy may be distributed without a clarification that the information is not endorsed by the Department;

(ii) The person(s) conducting the activity makes clear that cooperation is not a condition of the receipt of TEFAP commodities for home consumption or prepared meals containing TEFAP commodities (cooperation includes contributing money, signing petitions, or conversing with the person(s)); and

(iii) The activity is not conducted in a manner that disrupts the distribution of TEFAP commodities or meal service.

(2) Eligible recipient agencies and distribution sites shall ensure that activities unrelated to the distribution of TEFAP foods or meal service are conducted in a manner consistent with paragraph (f)(1) of this section.

(3) *Termination for violation.* Except as provided in paragraph (f)(4) of this section, State agencies shall immediately terminate from further participation in TEFAP operations any emergency feeding organization or distribution site that distributes or permits distribution of materials in a manner inconsistent with the provisions of paragraph (f)(1) of this section.

(4) *Termination exception.* The State agency may withhold termination of an eligible recipient agency's or distribution site's TEFAP participation if the State agency cannot find another eligible recipient agency or distribution site to operate the distribution in the area served by the violating organization. In such circumstances, the State agency shall monitor the violating organization to ensure that no further violations occur.

(g) *Use of volunteer workers and non-USDA commodities.* In the operation of the Emergency Food Assistance Program, State agencies and eligible recipient agencies shall, to the maximum extent practicable, use volunteer workers and foods which have been donated by charitable and other types of organizations.

(h) *Maintenance of effort.* The State may not reduce the expenditure of its own funds to provide commodities or services to organizations receiving funds or services under the Emergency

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(h) *Maintenance of effort.* The State may not reduce the expenditure of its own funds to provide commodities or services to organizations receiving funds or services under the Emergency

United States Department of Agriculture

Food and Nutrition Service

3101 Park Center Drive
Alexandria, VA 22302

SEP 10 1993

Reply to Attn. of: Food Distribution Programs Policy Memo No. 22

Subject: Activities Unrelated to Distribution of USDA Commodities or Meals

To: Regional Director
Special Nutrition Programs
MARO, NERO, SERO, SWRO, WRO

Regional Director
Food Distribution Programs
MPRO, MWRO

In response to recent questions from regional offices, this memorandum will serve to clarify policy with regard to activities unrelated to the distribution of Department of Agriculture (USDA) commodities or meals prepared with these commodities that take place at sites participating in USDA Commodity Distribution Programs.

Organizations receiving USDA commodities may not impose any eligibility requirements beyond those established by the State on applicants for, or recipients of, USDA commodities or meals prepared with these commodities. Therefore, activities unrelated to the receipt of USDA commodities may not be conducted at sites unless participation in such activities is expressly identified as being separate and apart from food service or distribution involving USDA commodities and not required in order to receive such commodities or meals that include them. For example, an overnight shelter that receives USDA commodities to prepare meals may not require otherwise eligible individuals to attend religious services in order to receive meals. Attendance at such services may, however, be required to stay overnight in the shelter, as this is unrelated to the receipt of meals that include such commodities. Other examples of unrelated activities that cannot be required for participation in USDA programs include political rallies and meetings, and solicitation of monetary contributions at the distribution or meal site for use by religious and other groups. (Organizations participating in the Nutrition Program for the Elderly can, of course, solicit voluntary contributions to defray the cost of the meal service they provide under the program.)

In their review of approval of organizations, State agencies should clearly ascertain whether additional requirements are placed on individuals for the receipt of USDA commodities or meals. Organizations that violate this prohibition should be given sufficient opportunity to abolish such requirements and be terminated from the program(s) if they fail to do so.

Please disseminate this information to your respective State agencies. If you have any questions, you may contact Lillie Ragan at (703) 305-2660.

Vernon R Morgan

VERNON R. MORGAN
Director
Food Distribution Division

Please detach the upper portion & return with your gift. Thank you!

HUNGER GRAM

SEPTEMBER 2000

MR. AND MRS. JIM SCHWARTZ
8792 OAKWOOD
OLIVE BRANCH MS 38654

A SERIOUS SITUATION HAS OCCURRED, RESULTING IN AN ANNUAL LOSS OF OVER 10 TONS OF FOOD FOR THE MISSION.

RECENTLY AN INSPECTOR FOR THE UNITED STATES DEPARTMENT OF AGRICULTURE (USDA) CONDUCTED A SURPRISE INSPECTION OF OUR POPLAR AVENUE FACILITY. WE PASSED OUR HEALTH INSPECTION, BUT THE USDA INSPECTOR HAS CUT OFF OUR SUPPLY OF DONATED FOODS!

THE INSPECTOR INDICATED THAT HIS ACTION WAS BASED UPON THE FACT THAT MEMPHIS UNION MISSION REQUIRES ALL PEOPLE RECEIVING ASSISTANCE TO ATTEND OUR GOSPEL SERVICES.

TO HAVE THE FOOD REINSTATED, I HAVE BEEN TOLD THAT ALL I HAVE TO DO IS SEND A LETTER TO THE USDA INDICATING WE WILL NO LONGER REQUIRE OUR CLIENTS TO ATTEND GOSPEL SERVICES.

> **SPEAKING FOR OUR BOARD, STAFF, RESIDENTS AND ALL DONORS WHO HAVE PLACED THEIR TRUST IN US, I MUST RESPECTFULLY SAY TO THE USDA, "THIS WILL NEVER HAPPEN! IT GOES AGAINST THE REASON WE EXIST--TO PREACH AND PROMOTE THE SPREADING OF THE GOSPEL OF JESUS CHRIST!"**

AS YOU KNOW, WE ARE COMMITTED TO PRESENTING THE GOSPEL TO EVERYONE WHO COMES TO US FOR HELP. AFTER ALL, IT IS ONLY THE "BREAD OF LIFE" THAT CAN SATISFY A MAN'S REAL HUNGER. TO OFFER FREE FOOD WITHOUT OFFERING THE BREAD OF LIFE WOULD BETRAY OUR BELIEFS, OUR PURPOSE AND YOUR TRUST; NOT TO MENTION, RISK LOSING GOD'S BLESSING ON THIS, HIS MINISTRY.

THE LOSS OF 10 TONS OF FOOD--LARGELY PROTEIN-RICH MEAT--COMES AT A DIFFICULT TIME FOR US. SO FAR, THIS YEAR, WE'VE PROVIDED OVER 3,000 MORE MEALS TO HOMELESS MEMPHIANS THAN LAST YEAR. AND WE ARE NOW PREPARING FOR OUR BUSIEST TIME OF YEAR, THE UPCOMING HOLIDAY SEASON.

WITH THE CHALLENGE THAT THE USDA HAS PRESENTED US, THERE IS ABSOLUTELY NO WAY WE CAN MAKE UP THE LOSS WITHOUT THE HELP OF COMPASSIONATE FRIENDS LIKE YOU. WILL YOU HELP US MAKE UP THE DEFICIT SO WE CAN CONTINUE TO PROVIDE NUTRITIOUS MEALS AND CHRISTIAN CARE TO THOSE WHO COME TO US HOMELESS, HURTING AND IN NEED OF THE LORD JESUS CHRIST? YOUR GIFT OF $25.00 IN AUGUST OF 1999 REALLY HELPED. WILL YOU HELP US AGAIN BY MAKING ANOTHER GIFT IN THAT AMOUNT TODAY?

COMMITTED TO THE CAUSE OF CHRIST,

REV. MARK CALHOUN
PRESIDENT

Fax Message

Jim Schwartz
(b)(6)
TEL: (b)(6) **FAX:** (b)(6)
Email: (b)(6)

Date 1-Sep-00

To: Bill Canty

FaxNo: 1 662 234 1744

Subj: USDA Policies

YOU SHOULD RECEIVE TWO PAGE(S), INCLUDING THIS COVER SHEET. IF YOU DO NOT RECEIVE ALL THE PAGES, PLEASE CALL ABOVE NUMBER.

Dear Bill:

Please see the attached "Hunger Gram" that I received from the Memphis Union Mission, a charity that I modestly support.

I cannot believe this is true! Tell me it ain't so!

If it is true, what is this Republican Congress doing to correct this use of food paid for by the taxpayers to help the needy that is constructively being used to preach atheism.

No one starved in this country before the socialist perfected the policy of taking our tax money and using it, through various programs to buy votes and consolidate their power. But this is a two pronged attack: consolidate power by buying votes through a redistribution of income while at the same time rendering our religious organizations irrelevant by replacing their charitable responsibilities with government largess.

Are we placing the same kind of restrictions on the billions we are sending to African nations for food?

Please see that Trent is aware of this since I know they are on a long weekend.

Regards, Jim

TRENT LOTT
MISSISSIPPI

MAJORITY LEADER

FINANCE

COMMERCE, SCIENCE, AND TRANSPORTATION

RULES

United States Senate

SUITE 487, RUSSELL SENATE OFFICE BUILDING
WASHINGTON, DC 20510-2403

245 EAST CAPITOL STREET
SUITE 226
JACKSON, MS 39201

3100 S. PASCAGOULA STREET
PASCAGOULA, MS 39567

#1 GOVERNMENT PLAZA
SUITE 428
GULFPORT, MS 39501

911 JACKSON AVENUE
SUITE 127
OXFORD, MS 38655

200 E. WASHINGTON STREET
SUITE 145
GREENWOOD, MS 38930

September 6, 2000

Honorable Daniel R. Glickman
Secretary
U.S. Department of Agriculture
14th Street & Independence Avenue, SW, Suite 200-A
Washington, D.C. 20250

45-4161260
FNS

Dear Dan,

I wanted to write to you on behalf of Jim Schwartz.

The enclosures with this letter detail the nature of the concern and should be self explanatory. I would sincerely appreciate you and your staff looking into this situation in a way that will provide every possible assistance. Should you have any questions about these materials, please feel free to make any direct constituent contact you feel necessary for whatever additional information you or your staff might need.

As you would probably expect, I place a high priority on looking into constituent concerns and would like to respond on this in a very personal way. Therefore, it would help expedite my handling of this case if you could refer to my constituents by name in your reply to my Oxford office. Again, I truly appreciate your time and attention to this for me.

I look forward to hearing from you soon, and with kind regards and best wishes, I am

Sincerely yours,

Trent Lott

TL:egh

Enclosure

#71
CC Jean
Mailing

JAN 19 2001

The Honorable Trent Lott
United States Senator
911 Jackson Avenue, Suite 127
Oxford, Mississippi 38655

Dear Senator Lott:

Thank you for your letter forwarding the concerns of your constituent, Mr. Jim Schwartz. Mr. Schwartz wrote to you about Memphis Union Mission, an organization that until recently received commodities donated by the Department of Agriculture's (USDA) Food and Nutrition Service (FNS). Memphis Union Mission received these commodities as an eligible recipient agency participating in the Emergency Food Assistance Program (TEFAP). The mission used these commodities to prepare and serve meals to needy persons.

In Tennessee, TEFAP is administered by the State Department of Agriculture. In July, the Tennessee Department of Agriculture made a routine monitoring visit to the mission. During that visit, the monitors noticed that the mission required all people who received assistance to participate in religious services prior to the meal service, contrary to TEFAP regulations. Federal regulations at 7 C.F.R. 251.10(f) prohibit eligible recipient agencies from making participation in an activity unrelated to TEFAP a condition of the receipt of TEFAP commodities or prepared meals containing TEFAP commodities. This provision does not prohibit unrelated activities, including religious activities, as long as the eligible recipient agency makes clear that participation is not required in order to receive TEFAP commodities or meals containing those commodities. This approach serves a number of purposes: Delivering TEFAP benefits without additional eligibility requirements; avoiding the appearance that USDA is endorsing any political, religious, or other view; and ensuring compliance with the First Amendment guarantees of separation of church and state and free exercise of religion.

Faith-based organizations play an important role in delivering TEFAP and other benefits and I applaud their efforts. However, we must also recognize the important principles established in the First Amendment. The TEFAP regulations balance these concerns by permitting organizations to participate in TEFAP regardless of their religious character as long as they do not make participation in religious activities mandatory. I have asked FNS to look into this matter further in order to make sure that all parties understand that this provision does not require religious organizations to change or abandon their religious principles, but only that TEFAP benefits are provided without additional eligibility requirements.

Sincerely,

Samuel Chambers, Jr.
Administrator

cc: The Honorable Trent Lott
United States Senate
487 Russell Senate Office Building
Washington, D.C. 20510-2403

OES

DRAFT:FNS:SNP:FDD:HPB:PhilCohen:dcd:9/20/00:305-2662:45-4161260
FINAL:FNS:SNP:FDD:HPB:PhilCohen:dcd:10/2/00:305-2662:45-4161260
File:J:Hon. Trent Lott

Withdrawal Marker
The George W. Bush Library

FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Memorandum	Re I hate us getting beat up every day - To: John DiIulio, et al - From: Stanley Carlson-Theis	1	07/11/2001	P5;

This marker identifies the original location of the withdrawn item listed above. For a complete list of items withdrawn from this folder, see the Withdrawal/Redaction Sheet at the front of the folder.

COLLECTION:
Faith-Based & Community Initiatives, White House Office of

SERIES:
Willett, Don R. - General Files

FOLDER TITLE:
[Correspondence] [Folder 3] [1]

FRC ID:
814

OA Num.:
1661

NARA Num.:
1529

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advise between the President and his advisors, or between such advisors [a)(5) of the PRA]
P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

Deed of Gift Restrictions

A. Closed by Executive Order 13526 governing access to national security information.
B. Closed by statute or by the agency which originated the document.
C. Closed in accordance with restrictions contained in donor's deed of gift.

Freedom of Information Act - [5 U.S.C. 552(b)]

b(1) National security classified information [(b)(1) of the FOIA]
b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

This Document was withdrawn on 5/2/2012 by JZ

Withdrawal Marker
The George W. Bush Library

FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Email	RE: bowery mission - To: Don R. Willett - From: Davids, James	2	06/01/2001	P5;

This marker identifies the original location of the withdrawn item listed above. For a complete list of items withdrawn from this folder, see the Withdrawal/Redaction Sheet at the front of the folder.

COLLECTION:
Faith-Based & Community Initiatives, White House Office of
SERIES:
Willett, Don R. - General Files
FOLDER TITLE:
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This Document was withdrawn on 5/2/2012 by JZ

5/23/01

The Florida Coalition of Faith-Based Aftercare Residential Providers

Bro. Willett — This, plus: Bowery Mission (OJJDP); SALV. ARMY; case cited by MARVIN O. in latest WORLD; D.C. STNG.

The Florida Coalition of Faith-Based Aftercare Residential Providers

P.O. Box 819
Ocala, FL 34478
Phone: (352) 351-1280
Fax: (352) 351-8213
E-mail: tff@gate.net

Bernie DeCastro, President
Time for Freedom, Inc.
Ocala, FL

Pastor John Glenn, Vice-President
Alpha Ministries
Okeechobee, FL

Mark Parker, Secretary
Caring People Ministries
Bowling Green, FL

Enrico Lamberti, CAP
Breakthrough Recovery Services
Okeechobee, FL

Mike Lewandowski
Lamb of God Ministries
Pompano Beach, FL

Dan Palmer
Prisoners of Christ
Jacksonville, FL

Jim Bernard
Good News Outreach
Tallahassee, FL

May 21, 2001

White House Office of Faith Based & Community Initiatives
Mr. John DiIulio
The White House
Washington, DC 20502

Dear Mr. DiIulio:

It is my understanding that the White House Office of Faith Based and Community Initiatives is looking for barriers to funding faith based organizations.

Enclosed you will find a cover letter from Mr. Jim Simons from the City of Ocala along with the last two pages from the HUD application for CDBG funds.

I would say that the restrictions on this funding from HUD is definitely a barrier to faith based organizations.

Thank you.

Sincerely,

Bernie DeCastro

Bernie DeCastro

CC: Senator Rick Santorum
Congressman J.C. Watts
Congressman Cliff Stearns
Rev. Mark Scott

Time to focus on these— ... your thoughts. —JD

City of Ocala

COMMUNITY PROGRAMS DEPARTMENT

405 S.E. OSCEOLA AVE. ~ P.O. BOX 1270
OCALA, FLORIDA 34478-1270
(352) 629-8322 • Fax: (352) 867-1781

Ocala-Marion County
All-America City

May 3, 2001

Bernie DeCastro
Executive Director
Time for Freedom, Inc.
P.O. Box 819
Ocala, FL 34478

Dear Mr. DeCastro:

Thank you for the opportunity at the meeting with you and Mr. Slack Monday April 30, 2001 to review the CDBG Request for Proposals (RFP) for non-public service activities. We reviewed the proposal in detail as it relates to your proposed request for funds to renovate the old Boys and Girls Club building at 642 NE 20th St. for use for transitional housing / counseling center for men with a history of substance abuse.

We discussed the various stipulations placed on the Federal funds as it relates to construction activities including the competitive and fair bidding process, Davis-Bacon wage requirements, environmental review, and payment by the City on a reimbursement basis. We also discussed separation of church and state issues related to the HUD funds.

I advised you that our HUD office in Jacksonville determined on April 26, 2001 that any receipt of CDBG funds by your organization would have to be through a "separate, secular entity" per §570.200(j)(2) attached and on page 19 of the RFP. We discussed the implications of §570.200(j)(3) with regard to the structure, since that section refers to "public services", and the implications of sections (3)(i) through (iii) that refer to "no religious instruction or counseling, conduct no religious worship or services, engage in no religious proselytizing, and exert no other religious influence in the provision of such public services". Although you are requesting funds for renovations, our interpretation is that the program, or public service, to be carried out in the renovated structure must also meet HUD eligibility guidelines, including these religious restrictions.

I also provided you with a print out from the HUD web site (attached) giving HUD's current interpretation of separation of church and state issues. As we discussed, the current interpretation is important due to a changing climate with regard to assistance to faith-based organizations. The City has been assisting faith-based organizations such as Habitat for Humanity and MAD DADS for several years with CDBG funds so this is not a new experience for us.

I am raising these issues so that your organization is aware of the implications on your program of receiving these Federal funds, so there are no surprises later.

Again, thank you for taking the time to discuss these issues with me and let me know if you have any further questions.

Yours,

Jim Simon
Supervisor, Housing & Grants

cc: Marion Guilford, HUD Representative
Paul Nugent, Assistant City Manager
Bill Patten, Community Programs Director
Bud Scharf, Community Development Manager

ACKNOWLEDGMENT OF RELIGIOUS ORGANIZATION REQUIREMENTS

For Projects administered by Religious Organizations:

Have your organization's authorized signatory sign the acknowledgment document.

570.200(j) Constitutional Prohibition. In accordance with First Amendment Church/State Principles", as a general rule, CDBG assistance may not be used for religious activities or provided to primarily religious entities for any activities, including secular activities. The following restrictions and limitations therefore apply to the use of CDBG funds.

(1) CDBG funds may not be used for the acquisition of property or the construction or rehabilitation (including historic preservation and removal or architectural barriers) of structures to be used for religious purposes or which will otherwise promote religious interests. This limitation includes the acquisition of property for ownership by primarily religious entities and the construction or rehabilitation (including historic preservation and removal of architectural barriers) of structures owned by such entities (except as permitted under paragraph (j)(2) of this section with respect to rehabilitation and under paragraph (j)(4) of this section with respect to repairs undertaken in connection with public services) regardless of the use to be made of the property or structure. Property owned by primarily religious entities may be acquired with CDBG funds at no more than fair market value for a non-religious use.

(2) CDBG funds may be used to rehabilitate buildings owned by primarily religious entities to be used for a wholly secular purpose under the following conditions:

(i) The building (or portion thereof) that is to be improved with the CDBG assistance has been leased to an existing or newly established wholly secular entity (which may be an entity established by the religious entity);

(ii) The CDBG assistance is provided to the lessee (and not the lessor) to make the improvements;

(iii) The leased premises will be used exclusively for secular purposes available to persons regardless of religion;

(iv) The lease payments do not exceed the fair market rent of the premises as they were before the improvements are made;

(v) The portion of the cost of any improvements that also serve a non-leased part of the building will be allocated to and paid for by the lessor;

(vi) The lessor enters into a binding agreement that unless the lessee, or a qualified successor lessee, retains the use of the leased premises for a wholly secular purpose for at least the useful life of the improvements, the lessor will pay to the lessee an amount equal to the residual value of the improvements;

(vii) The lessee must remit the amount received from the lessor under paragraph (j)(2)(vi) of this section to the recipient or subrecipient from which the CDBG funds were derived.

The lessee can also enter into a management contract authorizing the lessor religious entity to use the building for its intended secular purpose, e.g., homeless shelter, provision of public services. In such case, the religious entity must agree in the management contract to carry out the secular purpose in a manner free from religious influences in accordance with the principles set forth in paragraph (j)(3) of this section.

(3) As a general rule, CDBG funds may be used for eligible public services to be provided through a primarily religious entity, where the religious entity enters into an agreement

with the recipient or subrecipient from which the CDBG funds are derived that, in connection with the provision of such services:

(i) It will not discriminate against any employee or applicant for employment on the basis of religion and will not limit employment or give preference in employment to persons on the basis of religion;

(ii) It will not discriminate against any person applying for such public services on the basis of religion and will not limit such services or give preference to persons on the basis of religion;

(iii) It will provide no religious instruction or counseling, conduct no religious worship or services, engage in no religious proselytizing, and exert no other religious influence in the provision of such public services;

(4) Where the public services provided under paragraph (j)(3) of this section are carried out on property owned by the primarily religious entity, CDBG funds may also be used for minor repairs to such property which are directly related to carrying out the public services where the cost constitutes in dollar terms only an incidental portion of the CDBG expenditure for the public service.

I HEREBY ACKNOWLEDGE THAT I HAVE READ THE SPECIFIC REQUIREMENTS CONTAINED IN THIS ATTACHMENT AND THAT ELIGIBILITY OF MY ORGANIZATION'S PROJECT DEPENDS UPON COMPLIANCE WITH THE REQUIREMENTS CONTAINED IN THIS ATTACHMENT.

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Signature

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Name/Title of Signatory

____

Name of Organization

____

Date

hud news
news releases
initiatives

homes
buying
selling
renting
homeless
home improvements
hud homes
fha refunds
foreclosure
consumer info

communities
your community
volunteering
organizing
what works
economic development

working with hud
grants
other funds
contracts
work online
about hud
hud jobs
local info
complaints

resources
library
handbooks/forms

separation of church and state in hud programs

The faith community has long been one of the leaders in assisting homeless persons and families and in providing affordable housing for poor people, especially special populations like the elderly and disabled. HUD is proud to be a partner in making assistance available for these purposes. But special consideration attends participation by the Faith Community.

The First Amendment to the United States Constitution states that "Congress shall make no law respecting an establishment or religion, or prohibiting the free exercise thereof." These two purposeful provisions—the Establishment Clause and the Free Exercise Clause—may sometimes seem in tension. Working them out requires careful, principled commitment. For purposes of the role of the Faith Community in HUD assistance programs, the Establishment Clause is generally the requirement that must be addressed.

Supreme Court cases have established that an organization's religious affiliations do not constitutionally disqualify it from participating equally in a governmental program that provides grants to religious and non-religious entities alike on a neutral basis, where the criteria for funding are neutral and secular. However, a government may not choose to fund a particular organization because it is religious in character or because of its religious affiliations, and may not prefer religious organizations over others, e.g., by setting aside a particular portion of funds for them. Moreover, a government may not prefer certain religious denominations or organizations over others for funding, except on the basis of secular criteria unrelated to the organizations' religious affiliations or tenets.

Thus, in the case of HUD funding to private organizations to enable them to provide services to people in need, such funding may be provided to religiously affiliated organizations. Such organizations must not, however, use HUD aid to advance specifically religious activities – such as religious worship, religious instruction, or proselytizing – in an otherwise substantially secular setting. HUD may, in other words, subsidize a religious organization's secular program providing, for example, food and shelter to the homeless so long as that program can be meaningfully and reasonably separated from the organization's sectarian activities. In particular, HUD must ensure that the organization's privately-funded religious activities are not offered as part of its government-funded program and that the government-funded program is not used as a device to involve the participants in religious activities. The government may not provide funding directly to organizations in which secular activities cannot be separated from sectarian ones, because where secular and sectarian activities are inextricably intertwined, the provision of direct financial aid invariably will support religious activity. In addition, HUD expressly requires providers to agree not to discriminate on the basis of religion in hiring or in the provision of services.

Certain HUD programs involve aid to private organizations, including religiously affiliated organizations, to improve real property that is to be used for, e.g., housing assistance for the elderly and the disabled. The facilities and structures that are improved with such aid must not be used for sectarian instruction or as a place for religious worship.

As indicated above, the other side of the religious component of the First Amendment is the Free Exercise Clause. HUD is sensitive to this branch of the law. One way HUD helps in this respect relates to issues concerning the occasional and incidental use of community space for religious purposes in federally assisted public housing and section 202 and 811 projects for the elderly and disabled. The general HUD policy is that community space may be made available for purposes of interest to residents, including religious purposes, so long as the space is made available to all residents in the same manner.

HUD looks forward to continuing the shared mission of both government and the churches to lessen the hurt of poverty and homelessness and to move toward eradicating them.