



USAID
FROM THE AMERICAN PEOPLE

USAID Programs and Religious Organizations

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“Congress shall make no law respecting
an establishment of religion or
prohibiting the free exercise thereof”

*- The Establishment Clause and the Free Exercise
Clause of the First Amendment to the US Constitution*

Basic Legal Framework

Establishment Clause Jurisprudence Indicates:

- 1. *Purpose*** of the federal assistance must be secular.
 - Purpose cannot be to endorse or disapprove of religion
 - 2. *Principle effect*** must not be to advance or inhibit religion.
 - Government financed activities and programs may not:
 - Result in government indoctrination of religion
 - Define recipients by reference to religion
 - Create an excessive entanglement with religion
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From Principles to Concrete Rules

- Agency-specific regulations on the provision of federal financial assistance/social services to the public.
 - Interagency process to coordinate these regulations, vis-à-vis religious organizations, since 2002.
 - Periodic updates over time.
 - USAID's Rule: 22 CFR 205.1 (most recently updated in 2016)
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Key Points in USAID's Rule

Derived from 22 CFR 205.1, Participation by Religious Organizations in USAID Programs

- Level Playing Field
 - Freedom to Maintain Organization's Character
 - Unbiased Partnering
 - Nondiscrimination in Assistance
 - Restriction on Funding Explicitly Religious Activity
 - Non-coercion
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Considerations re: Religious Structures

Derived from 22 CFR 205.1, Participation by Religious Organizations in USAID Programs

- Special considerations apply to programs involving overseas acquisition, rehabilitation, or construction of structures used for explicitly religious activities.
 - SFOAA Sec. 7043(i) requires special certification that program is for purpose of preserving a site based on its historical, artistic or cultural significance, etc.
 - 22 CFR 205.1 may require prior USAID consultation with DOJ and reporting on USAID website.
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Application to Partners via Standard Provisions

Assistance Agreements Require:

- Adherence to USAID's rule and including the same provisions in USAID-funded subawards. **Read M.11 (US) / M.17 (Non US)!!**
 - Nondiscrimination on the basis of religion or other factors in providing “access to benefits provided through this award.”
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Take Aways

- Religious organizations are eligible to participate in USAID programs on the same basis as any other organization
 - Recipients cannot use USAID funds for explicitly religious purposes, e.g. constructing places of worship, purchasing religious materials, or proselytization
 - Recipients may not discriminate for/against potential partners or beneficiaries on the basis of religion
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