

agreement to supplement federally funded activities, the State or subgrantee has the option to segregate those additional funds or commingle them with the funds required by the matching requirements or grant agreement. However, if the additional funds are commingled, this section applies to all of the commingled funds.

(Authority: 20 U.S.C. 1221e-3, 3474, and 6511(a))

#### **§ 76.532 [Amended]**

6. Section 76.532 is amended by removing (a)(3) and (a)(4); and removing and reserving (b).

### **PART 74—ADMINISTRATION OF GRANTS AND AGREEMENTS WITH INSTITUTIONS OF HIGHER EDUCATION, HOSPITALS, AND OTHER NON-PROFIT ORGANIZATIONS**

7. The authority citation for part 74 continues to read as follows:

**Authority:** 20 U.S.C. 1221e-3 and 3474, OMB Circular A-110, unless otherwise noted.

8. Section 74.44 is amended by adding new paragraph (f) to read as follows:

#### **§ 74.44 Procurement procedures.**

\* \* \* \* \*

(f)(1)(i) A faith-based organization is eligible to contract with or otherwise receive assistance from recipients on the same basis as any other private organization, with respect to contracts or assistance for which such other organizations are eligible.

(ii) Recipients shall not discriminate against a private organization on the basis of the organization's religious character or affiliation.

(2) The provisions of §§ 75.532 and 76.532 applicable to grantees and subgrantees apply to a faith-based organization that contracts with or otherwise receives assistance from a recipient, unless the faith-based organization is selected as a result of the genuine and independent private choice of the beneficiary of the program and provided the organization otherwise satisfies the requirements of the program.

(3) A private organization that engages in inherently religious activities, such as religious worship, instruction, or proselytization, must offer those services separately in time or location from any programs or services supported by a contract with or assistance received from a recipient and participation in any such inherently religious activities by beneficiaries of

the programs supported by the contract or assistance must be voluntary, unless the organization is selected as a result of the genuine and independent private choice of the beneficiary of the program and provided the organization otherwise satisfies the requirements of the program.

(4)(i) A faith-based organization that contracts with or otherwise receives assistance from a recipient may retain its independence, autonomy, right of expression, religious character, and authority over its governance.

(ii) A faith-based organization may, among other things—

(A) Retain religious terms in its name;

(B) Continue to carry out its mission, including the definition, development, practice, and expression of its religious beliefs;

(C) Use its facilities to provide services without removing or altering religious art, icons, scriptures, or other symbols from these facilities;

(D) Select its board members and otherwise govern itself on a religious basis; and

(E) Include religious references in its mission statement and other chartering or governing documents.

(5) A private organization that contracts with or otherwise receives assistance from a recipient shall not discriminate against a beneficiary or prospective beneficiary of the program on the basis of religion or religious belief.

### **PART 80—UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE AND LOCAL GOVERNMENTS**

9. The authority citation for part 80 continues to read as follows:

**Authority:** 20 U.S.C. 1221e-3(a)(1) and 3474, OMB Circular A-102, unless otherwise noted.

10. Section 80.36 is amended by adding new paragraph (j) to read as follows:

#### **§ 80.36 Procurement.**

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(j) *Contracting with faith-based organizations.* (1)(i) A faith-based organization is eligible to contract with or otherwise receive assistance from grantees and subgrantees, including States, on the same basis as any other private organization, with respect to contracts or assistance for which such other organizations are eligible.

(ii) Grantees and subgrantees, including States, shall not discriminate against a private organization on the

basis of the organization's religious character or affiliation.

(2) The provisions of §§ 75.532 and 76.532 applicable to grantees and subgrantees apply to a faith-based organization that contracts with or otherwise receives assistance from a grantee or subgrantee, including a State, unless the faith-based organization is selected as a result of the genuine and independent private choice of the beneficiary of the program and provided the organization otherwise satisfies the requirements of the program.

(3) A private organization that engages in inherently religious activities, such as religious worship, instruction, or proselytization, must offer those services separately in time or location from any programs or services supported by a contract with or assistance received from a grantee or subgrantee, including a State, and participation in any such inherently religious activities by beneficiaries of the programs supported by the contract or assistance must be voluntary, unless the organization is selected as a result of the genuine and independent private choice of the beneficiary of the program and provided the organization otherwise satisfies the requirements of the program.

(4)(i) A faith-based organization that contracts with or otherwise receives assistance from a grantee or subgrantee, including a State, may retain its independence, autonomy, right of expression, religious character, and authority over its governance.

(ii) A faith-based organization may, among other things—

(A) Retain religious terms in its name;

(B) Continue to carry out its mission, including the definition, development, practice, and expression of its religious beliefs;

(C) Use its facilities to provide services without removing or altering religious art, icons, scriptures, or other symbols from these facilities;

(D) Select its board members and otherwise govern itself on a religious basis; and

(E) Include religious references in its mission statement and other chartering or governing documents.

(5) A private organization that contracts with or otherwise receives assistance from a grantee or subgrantee, including a State, shall not discriminate against a beneficiary or prospective beneficiary of the program on the basis of religion or religious belief.

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