

March 14, 2023

The Honorable Thomas Vilsack
Secretary
U.S. Department of Agriculture
1400 Independence Avenue SW
Washington, DC 20250

The Honorable Marcia Fudge
Secretary
U.S. Department of Housing and Urban
Development 451 7th Street SW
Washington, DC 20410

The Honorable Dr. Miguel Cardona
Secretary
U.S. Department of Education
400 Maryland Avenue SW
Washington, DC 20202

The Honorable Samantha Power
Administrator
United States Agency for International
Development
1300 Pennsylvania Avenue NW
Washington DC 20004

The Honorable Xavier Becerra
Secretary
U.S. Department of Health and Human
Services
200 Independence Avenue SW
Washington, D.C. 20201

The Honorable Merrick Garland
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue NW
Washington, DC 20530

The Honorable Alejandro Mayorkas
Secretary
Department of Homeland Security
3801 Nebraska Avenue NW
Washington, D.C. 20016

The Honorable Julie Su
Acting Secretary
U.S. Department of Labor
200 Constitution Avenue NW
Washington, DC 20210

The Honorable Denis McDonough
Secretary
U.S. Department of Veterans Affairs
810 Vermont Avenue NW
Washington, DC 20420

RE: [Partnerships With Faith-Based and Neighborhood Organizations](#) (Document Number: 2022-28376; RIN Numbers: 0412-AB10, 0510-AA00, 0991-AC13, 1105-AB64, 1290-AA45, 1601-AB02, 1840-AD46, 2501-AD91,2900-AR23)

Dear Secretary Vilsack, Secretary Cardona, Secretary Becerra, Secretary Mayorkas, Secretary Fudge, Administrator Power, Attorney General Garland, Acting Secretary Su, and Secretary McDonough:

We write to express our support for the proposed regulations entitled “Partnerships with Faith-Based and Neighborhood Organizations” (“Proposed Regulations”) and to urge additional improvements to ensure robust religious liberty and nondiscrimination protections for people who use federally funded social services. Religious freedom is a core American value and serves as a shield to protect people, especially religious minorities, from religious discrimination and

ensures that the government does not pressure anyone to participate in religious activities. However, the current Trump-era 2020 Faith-Based Regulations (“Trump-era Regulations”) eliminated critical religious freedom protections for people seeking government-funded social services and placed the interests of government-funded organizations over those of people seeking these services. The new Proposed Regulations are a critical step forward in restoring these protections.

When the government funds social services, they must be open to all people, including people of all faith backgrounds and the nonreligious. Religion should never be used to deny people government-funded services, and people who seek government-funded services should never be pressured to participate in religious activities in order to receive such services. These Proposed Regulations reflect those principles, and they will greatly benefit people of all faiths and no faith backgrounds who seek government-funded services.

Notice Requirement

The current Trump-era Regulations removed the previous requirement under the 2016 Obama-era Faith-Based Regulations (“Obama-era Regulations”) that social service providers give beneficiaries written notice of their rights, including that the provider cannot discriminate against beneficiaries based on the provider's religion or force beneficiaries to participate in religious activities. We are glad this notice requirement has been restored and includes both faith-based and secular organizations. People cannot exercise rights that they do not know they have. **We strongly support the restoration of the notice requirement. We ask you to ensure that the notices are clear about how people can proceed if they experience discrimination in government-funded services and how complaints will be addressed.**

Indirect Aid

Under, *Zelman v. Simmons-Harris*, 536 U.S. 639 (2002), religious organizations may include religious activities in its programming *only if* it received federal funding “as a result of a genuine and independent private choice of a beneficiary.” Thus, consistent with *Zelman*, a voucher program must be neutral toward religion and offer beneficiaries adequate secular options. That’s why the Obama-era Regulations defined “indirect Federal financial assistance” as ensuring, among other criteria, that the “beneficiary has at least one adequate secular option for the use of the voucher.” The current Trump-era Regulations removed this requirement so a beneficiary in a current voucher program could only be given religious providers to choose from and thus be forced to participate in religious activities against their own religious beliefs in order to receive these government-funded services.

The updated definition in the proposed regulations that states “availability of adequate secular alternatives is a significant factor in determining whether a program affords true private choice,” is a critical improvement, but we believe the Constitution requires more. **We strongly urge the eight agencies that have voucher programs to require that adequate secular alternatives be available for a program to be considered to offer true private choice.** This change will adequately protect the religious freedom of beneficiaries seeking government-funded services.

Religious Exemption Language

The current Trump-era Regulations contained language inviting requests for broad religious exemptions, paving the way for taxpayer-funded organizations to refuse to provide key services to beneficiaries, especially LGBTQI+ people, religious minorities and the nonreligious, and women. **We support the removal of this broad language in the current regulations.**

Alternative Provider Requirement

The 2016 Obama-era regulations required providers to take reasonable steps to refer beneficiaries to alternative providers if requested. However, the current Trump-era Regulations removed this requirement, meaning there may be beneficiaries who have foregone services because they are uncomfortable at a faith-based provider and are unable to find an alternative provider on their own. This especially impacts LGBTQI+ people who might have forgone government services because they knew the religion of the faith-based provider condemned their identity.

We are glad the Proposed Regulations takes steps to restore the right of beneficiaries to request an alternative provider. **We strongly urge the agencies to work to ensure there are alternative providers in as many programs as possible, require that the notice include this information when applicable, and ensure the information about alternatives is easy to find and use for the people who need services.**

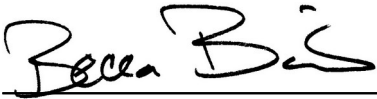
Employment Discrimination

The current Trump-era Regulations expanded problematic regulatory religious exemption language that permits government-funded providers to discriminate in employment with taxpayer funds. The Trump-era Regulations expanded this exemption to invite employers to claim a right to use religion to discriminate on the basis of sex, including sexual orientation and gender identity. Although the proposed regulations take an important step in the right direction by eliminating the Trump-era language, **we urge the agencies to eliminate this exemption altogether.** No one should be denied a taxpayer-funded government job because they are the ‘incorrect religion.’

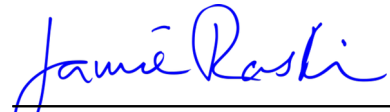
Conclusion

We thank your agencies for taking important steps forward to restore critical religious freedom protections and protections for minorities in these Proposed Regulations. We are confident that with the inclusion of the changes we have detailed, the final rule will strongly secure the rights of beneficiaries as the government partners with faith-based and neighborhood organizations to provide critical social services throughout the country.

Sincerely,



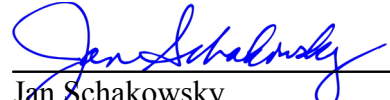
Becca Balint
Member of Congress



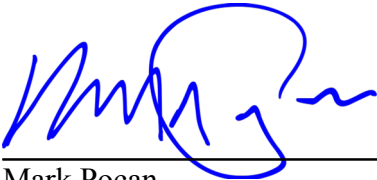
Jamie Raskin
Member of Congress



Jared Huffman
Member of Congress



Jan Schakowsky
Member of Congress



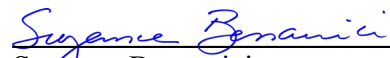
Mark Pocan
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