

February 18, 2020

Brian Klotz  
Deputy Director  
Center for Faith and Opportunity Initiatives  
USAID  
Room 6.07-017  
1300 Pennsylvania Avenue NW  
Washington, DC 20523-6601

**Re: Equal Participation of Faith-Based Organizations in USAID's Programs and Activities: Implementation of Executive Order 13831 (RIN 0412-AA99)**

Dear Mr. Klotz,

I write on behalf of the Union for Reform Judaism, whose nearly 850 congregations across North America encompass 1.5 million Reform Jews, and the Central Conference of American Rabbis, whose membership includes more than 2,000 Reform rabbis, in response to the proposed rule entitled "Equal Participation of Faith-Based Organizations in USAID's Programs and Activities: Implementation of Executive Order 13831" (RIN 0412-AA99). This proposed rule is an attack on religious freedom and will harm marginalized communities – including LGBTQ people, women, and religious minorities – who are employed by USAID grantees. Accordingly, we urge the Department to withdraw the proposed rule.

We also object to the unusually short 30-day period provided for public comment. The administration issued eight interconnected but distinct proposed regulations on the same day. Given the complexity and wide-ranging impact of these proposed rules, 30 days does not allow organizations such as ours a meaningful opportunity to comment.

The proposed rule would roll back the rights of employees of faith-based organizations that provide government-funded social services by expanding exemptions allowing religious organizations to discriminate in employment. Title VII of the Civil Rights Act of 1964 allows religiously affiliated employers to prefer co-religionists in employment, and existing regulations extend this exemption to government-funded social service providers. The proposed rule would expand this exemption even further, allowing religious social service providers to "select its employees on the basis of their

acceptance of, and/or or adherence to, the religious tenets of the organization.”<sup>1</sup> Not only would the proposed rule allow foreign aid and development assistance providers to discriminate against employees from different faiths, but it would also open the door to allowing providers to refuse to hire LGBTQ people, someone who uses birth control or had an abortion, someone who is pregnant and unmarried, or anyone else whom the provider believes violates its religious tenets.

Jewish text and tradition compel our beliefs in the principles of nondiscrimination and the separation of church and state. Judaism teaches that all people are created *b'tzelem Elohim* (in the image of God) and deserve dignity and respect regardless of their religion, sex, sexual orientation, or gender identity. As it says in Genesis, “And God created human in God’s own image, in the image of God, God created them” (Genesis 1:27). Furthermore, throughout our history, the Jewish people have experienced religious persecution and discrimination. We understand the devastating effects and know that state-backed discrimination quickly becomes a stain on the nation. As we live conscious of this history and of being created in God’s image, we must work to ensure that nobody faces discrimination due to their religious beliefs or any other protected characteristic.

The proposed rule will make it possible for government-funded social service agencies to deny employment to already marginalized communities. People should not be denied employment or be subject to discrimination simply because of who they are.

I urge the Department to rescind this proposed rule and instead work to ensure that all people can work without facing discrimination.

Sincerely,  
Rabbi Jonah Dov Pesner

---

<sup>1</sup> USAID, 85 Fed. Reg. at 2921 (to be codified at 22 CFR pt. 205.1(g))