goods or services on the basis of religion or religious belief, a refusal to hold a religious belief, or refusal to attend or participate in a religious practice. However, an organization that participates in a program funded by indirect financial assistance need not modify its program activities to accommodate a beneficiary who chooses to expend the indirect aid on the organization's program and may require attendance at all activities that are fundamental to the program.

(g) A religious organization's exemption from the Federal prohibition on employment discrimination on the basis of religion, in section 702(a) of the Civil Rights Act of 1964, 42 U.S.C. 2000e–1(a), is not forfeited when the organization contracts with a grantee or subgrantee. An organization qualifying for such an exemption may select its employees on the basis of their acceptance of or adherence to the religious tenets of the organization.

(h) No grantee or subgrantee receiving funds under any Department program or service shall construe these provisions in such a way as to advantage or disadvantage faith-based organizations affiliated with historic or well-established religions or sects in comparison with other religions or sects.

[85 FR 82125, Dec. 17, 2020]

§ 3474.20 Open licensing requirement for competitive grant programs.

For competitive grants awarded in competitions announced after February 21, 2017:

(a) A grantee or subgrantee must openly license to the public the rights set out in paragraph (b)(1) of this section in any grant deliverable that is created wholly or in part with Department competitive grant funds, and that constitutes a new copyrightable work; provided, however, that when the deliverable consists of modifications to pre-existing works, the license shall extend only to those modifications that can be separately identified and only to the extent that open licensing is permitted under the terms of any licenses or other legal restrictions on the use of pre-existing works.

(b)(1) With respect to copyrightable work identified in paragraph (a) of this section, the grantee or subgrantee must grant to the public a worldwide, non-exclusive, royalty-free, perpetual, and irrevocable license to—

(i) Access, reproduce, publicly perform, publicly display, and distribute the copyrightable work;

(ii) Prepare derivative works and reproduce, publicly perform, publicly display and distribute those derivative works; and

(iii) Otherwise use the copyrightable work, provided that in all such instances attribution is given to the copyright holder.

(2) Grantees and subgrantees may select any open licenses that comply with the requirements of this section, including, at the grantee's or subgrantee's discretion, a license that limits use to noncommercial purposes. The open license also must contain—

(i) A symbol or device that readily communicates to users the permissions granted concerning the use of the copyrightable work;

(ii) Machine-readable code for digital resources;

(iii) Readily accessed legal terms; and

(iv) The statement of attribution and disclaimer specified in 34 CFR 75.620(b).

(c) A grantee or subgrantee that is awarded competitive grant funds must have a plan to disseminate the openly licensed copyrightable works identified in paragraph (a) of this section.

(d)(1) The requirements of paragraphs (a), (b), and (c) of this section do not apply to—

(i) Grants that provide funding for general operating expenses;

(ii) Grants that provide support to individuals (*e.g.,* scholarships, fellowships);

(iii) Grant deliverables that are jointly funded by the Department and another Federal agency if the other Federal agency does not require the open licensing of its grant deliverables for the relevant grant program;

(iv) Copyrightable works created by the grantee or subgrantee that are not created with Department grant funds;

(v) Peer-reviewed scholarly publications that arise from any scientific research funded, either fully or partially, from grants awarded by the Department;