

CFC MEMORANDUM 2004-11

September 13, 2004

TO: LOCAL FEDERATIONS AND UNAFFILIATED ORGANIZATIONS, LOCAL FEDERAL COORDINATING COMMITTEES AND PRINCIPAL COMBINED FUND ORGANIZATIONS

**FROM: MARA T. PATERMASTER
DIRECTOR
OFFICE OF CFC OPERATIONS**

SUBJECT: GUIDANCE ON 2005 CFC ELIGIBILITY REQUIREMENTS FOR LOCAL FEDERATIONS AND UNAFFILIATED ORGANIZATIONS:
Attachment A: Demonstration of Substantial Local, Adjacent or Statewide Presence; Use of Standardized Formats and Lists; Use of Lists; Memorials, Museums, and Public Recreation Facilities, Scholarships and Fellowships; Distribution of Publications; Web-based Services;
Attachment B: IRS Determination Letter
Attachment D - Audited Financial Statements
Attachment E: Board Compensation on IRS Form 990; 0% AFR
Attachment F: AFR exceeding 25% Explanation and Formal Plan
Attachment G: Compensated Staff Member Who Also Serves on Board; Board Members' Terms of Office and Meeting Dates and Locations; Annual Report; Federation Dues/Fees

This memo clarifies eligibility requirements for participation in the 2005 Local Combined Federal Campaign (CFC). Information contained in this document clarifies and reiterates guidance previously issued in CFC Memoranda 2000-7, 2000-10, 2001-2, 2002-10, 2002-13 and 2003-9.

Please note that guidance regarding the requirements for compliance with the CFC's anti-terrorism certification is not part of this guidance. Anti-terrorism certification guidance will be issued separately.

CFC regulation 5 CFR §950.401(j) states that each national or local organization must individually meet all of the eligibility criteria and submit independent documentation. Organizations that submit their parent organization's information in lieu of their own documentation, including the IRS determination letter, IRS Form 990, audited financial statements, or annual report, may be denied participation.

Federation members must submit complete CFC applications to the federation. OPM encourages LFCCs to conduct random sampling of federation members. Federations that certify that a member organization meets the CFC eligibility criteria but are unable to provide the LFCC with a complete application upon request may be sanctioned. OPM strongly recommends that local federations send copies of all new members' applications to their LFCCs, whether or not requested pursuant to 5 CFR §950.304(b).

These regulations also require that federations, PCFO's and other participants in the CFC must retain documents pertinent to the campaign for at least three completed campaign years. Documents requested by OPM must be made available within 10 business days of the request.

Attachment A - Demonstration of Substantial Local, Adjacent or Statewide Presence

Substantial Local Presence

CFC regulation 5 CFR § 950.204(b)(1)(i) defines substantial local presence as a staffed facility, office or portion of a residence dedicated exclusively to that organization, available to members of the public seeking its services or benefits. It is the responsibility of the applicant, whether it is an unaffiliated organization or a federation, to submit complete and accurate information to the LFCC. This includes the provision of a physical street address, hours of operation, and the organization's dedicated phone number.

Substantial Presence in an Adjacent Campaign

Applicants demonstrating eligibility as a local service organization in an adjacent campaign area must include information documenting their substantial presence. This includes a physical street address, hours of operation and a local dedicated phone number. The acceptance of an organization in a local campaign does not automatically qualify it for listing in all adjacent campaigns. The organization must submit complete applications to all adjacent campaigns, including documentation of its substantial local presence in the adjacent campaign area.

It is also the responsibility of the applicant, whether it is an unaffiliated organization or a federation, to submit complete and accurate information to the LFCC. This includes clearly and accurately certifying and labeling evidence of grounds for local eligibility. For example, it is not acceptable to submit an application marked "Local Presence" for an organization that is actually applying as having presence in an adjacent campaign or as a statewide organization.

Substantial Statewide Presence

CFC regulation 5 CFR §950.204(b)(1)(ii) requires an organization certifying statewide presence to demonstrate that it provided or conducted real services, benefits, assistance, or program activities that covered 30% of a state's geographic boundaries or affected either 30% of the targeted population in the state. Attachment A's used to meet this requirement often lack a description of the actual services, fail to define the target population, fail to show the geographic area where actual services have been provided or fail to fully demonstrate that the population served or the geographic area equals 30% or more of the target population or geographic area. Total population statistics by county or claims that services are available to individuals in these counties are generally not adequate evidence of service.

In the case of the 30% geographic area test, applicant organizations must provide service records or other evidence (i.e. visitor statistics, client or membership statistics, project results or clearly outlined maps) that clearly show what portion of the geographic area has been covered relative to the total state geographic area.

In the case of the 30% population test, if an organization services special populations (i.e. persons with HIV or AIDS, adults requiring literacy instruction, non-English speaking children, etc.) the organization should provide evidence that it affects 30% of the eligible or target population. This can be shown by providing an estimate (through population surveys, needs assessment studies, etc.) of the total target population eligible to receive the services together with a demonstration that its services affect 30% of that target population. It is helpful if the applicant demonstrates that it has met the 30% rule by providing a calculation along with its Attachment A, such as:

Population Served = 30,000 people	or	Counties Served = 30
Target Population = 100,000 people	or	Total Counties in State = 100
Percentage of Target Population Served = 30%	or	Percentage of Counties Served = 30%

Whichever eligibility criteria the applicant organization chooses, LFCC's should keep in mind that the burden of proving the criteria is on the applicant organization.

Use of Standardized Formats and Checklists

OPM will exercise discretion in ascertaining whether a standardized format or checklist used to indicate real services, benefits, assistance or program activities contains sufficient descriptive detail to enable a judgment that the applicant has sufficiently demonstrated its provision of real services.

Use of Lists

Providing listings of affiliated support groups and members or a breakdown of attendees at an annual conference, in itself, is not a sufficient demonstration of real services, benefits, assistance or program activities required for statewide presence. Also, providing the location of residence of organization members, alone, does not meet the eligibility criteria.

Organizations that apply for statewide presence are not required to demonstrate local presence within the geographic area or provide services affecting the population within the applicable geographic boundaries of the CFC to which it is applying.

Memorials, Museums, Public Recreation Facilities, etc.

Listing the names and addresses of an organization's members or visitors to a facility does not satisfy local, adjacent, or statewide eligibility criteria. Each applicant must make a clear showing of the actual services, benefits, assistance, or program activities provided in each state or foreign country.

Scholarships and Fellowships/Mentorships

Statewide organizations that issue student scholarships or sponsor fellowships/mentorships must indicate the location where the recipients reside, not the location of the school or mentor.

Distribution of Publications

The dissemination of information and publications, alone, does not meet the CFC eligibility criteria.

Web-based Services

CFC applicant organizations which rely substantially on web-based services must comply with the local eligibility and public accountability standards at 5 CFR §950.204.

In addition, the Office of CFC Operations requires web-based service organizations to document proof that a service was actually provided over the website as a part of their application.

Acceptable supporting documentation shall consist of:

- (1) service logs or other records indicating the **geographic distribution of users** and the **scope of services received**; or
- (2) any two of the following three items:
 - Evidence that recipients, including members of the general public, dues paying members or affiliate organizations, have **registered** for use of the website;
 - Summary reports that document **customer feedback**, through service satisfaction or utilization surveys or other mechanisms;
 - Documented evidence that recipients of web-based services **paid a fee** for the service.
 - Reports that only reflect the number of hits to a website are **not acceptable** evidence of real services on [Attachment A](#).

Attachment B - IRS Determination Letter

Every CFC applicant must certify that it is recognized by the Internal Revenue Service (IRS) as tax-exempt under 26 U.S.C. 501(c)(3) and to which contributions are tax-deductible pursuant to 26 U.S.C. 170. A copy of the letter from the IRS granting 501(c)(3) tax-exempt status must be included with the application. A local organization that is covered by a central parent organization's tax-exemption must submit an IRS group exemption letter that specifies that all affiliated subordinate organizations under its control are also considered tax-exempt under 26 U.S.C. 501(c)(3). Submission of an IRS letter for the parent organization that is not a group exemption letter is not acceptable and will result in a denial of the local subordinate organization. It is not acceptable to submit a letter from the parent organization stating that its subordinates or affiliates are included in or covered by the IRS exemption. This type of evidence is not considered independent evidence of the IRS's group exemption determination.

Attachment D - Audited Financial Statements

Accrual Based Accounting Required For Local Applicants with Total Revenues of \$100,000 or More Organizations with revenues of \$100,000 or more seeking CFC eligibility are required to account for their funds in accordance with Generally Accepted Accounting Principles (GAAP), which requires an accrual based accounting system. Both the IRS Form 990 and the audited financial statements must be prepared using the accrual method. CFC eligibility will be denied for organizations using any method of accounting other than the accrual basis, including the cash basis, modified cash basis, and modified accrual basis of accounting.

However, local applicants with total revenues less than \$100,000 (as reported on line 12 of the IRS Form 990) are not required to provide an audited financial statement with their CFC application. As a result, many prepare their financial disclosure documents on a cash or modified cash basis, which is acceptable. If line 12 on the first page of the IRS Form 990 shows an amount less than \$100,000, Box J may be checked to indicate that the Form was prepared using a cash basis or other method. Some applicants may provide an audit even though revenues are less than \$100,000. In these cases, the audit is not a requirement and can be viewed as an immaterial part of the application.

Separate Schedule Required for Combined and Consolidated Audits

Combined and consolidated audits are not accepted unless the applicant's financial information is reflected in a separate audited combining or consolidating schedule that breaks out the information for the applicant.

Reconciliation of Audited Revenues and Expenses with IRS Form 990

Local organizations with total revenues of \$100,000 or more (as reported on line 12 of the IRS Form 990) applying for CFC participation must submit an annual audit of fiscal operations as described at 5 CFR §950.203(a)(2). The audit must cover the same fiscal period as the IRS Form 990. Reconciliation statements that purport to reconcile a cash-based IRS Form 990 with an accrual-based audited financial statement will not be accepted because both must be prepared using the accrual method.

If revenue and expenses on the audit and the IRS Form 990 differ, these amounts must be reconciled either on the IRS Form 990, Parts IV-A and IV-B, or in an accompanying signed statement by the certified public accountant who completed the audit. If the CPA who completed the audit is not available, it is acceptable to use another CPA within the same firm to provide the reconciliation and signed statement.

Organizations have asked whether a certified public accountant (CPA) must perform the reconciliation if it is not completed in the IRS Form 990, or whether a financial manager within their organization can perform the reconciliation. The reconciliation must be performed in an accompanying signed statement by the CPA who completed the audit if:

Line 12 (revenues) or Line 17 (expenses) of IRS Form 990 Part I are **different** from total revenues or expenses set forth on the audited financial statements, and Part IV-A and/or Part IV-B are **not completed**; or

Line 12 (revenues) or Line 17 (expenses) of IRS Form 990 Part I are **different** from total revenues or expenses set forth on the audited financial statements, and **the figure stated on Line a** of IRS Form 990 Parts IV-A or IV-B is **different** from total revenues or expenses set forth on the audited financial statements.

The only instance when an organization's management may provide a clarification is if Line 12 or Line 17 of Part I, or Line a of Parts IV-A and/or IV-B do not equal the revenues or expenses in the audited financial statements because certain categories of revenues or expenses on the audited financial statements have to be added together to equal the totals in the IRS Form 990.

We understand that certain categories of revenues and expenses on the audited financial statements may have to be added together to equal the total revenues and expenses that are listed on the IRS Form 990, either on Lines 12 and 17 of Part I or on Line a of Part IV-A and IV-B. For example, categories of revenues and expenses such as unrestricted, restricted or changes in temporarily restricted net assets may have to be added together to equal the amounts in the IRS Form 990. If this is the case, an appropriate management representative (e.g. officer, director, trustee or chief financial officer) may provide an explanation of the calculation and categories that were used in arriving at the totals on the IRS Form 990. **This explanation should accompany the financial documents in the application as it is originally filed with the LFCC.**

Attachment E - IRS Form 990

Except for smaller organizations that file the IRS Form 990EZ, organizations must attach a complete IRS Form 990 as part of the CFC application as required by 5 CFR §950.203(a)(3). A complete IRS Form 990 includes all six pages, including a signature on page six in the box marked "Signature of Officer," all statements referenced in the Form, and Schedule A. Organizations filing IRS Form 990EZ may submit the 990EZ together with pages 1 and 2 of Form 990 in place of a complete Form 990.

Board Compensation Must be Set Forth in IRS Form 990

Part V of the IRS Form 990 requires the charity to include a "List of officers, directors, trustees, and key employees (List each one even if not compensated)." An organization's IRS Form 990 that does not include a list of the officers, Board of Directors, trustees and key employees, and their compensation, if any, is incomplete and will result in a denial.

0% Administrative and Fundraising Rate

Organizations which do not reflect administrative and fundraising expenses on the IRS Form 990 but show such expenses on the audited financial statement will be denied unless the audited financial statements specifically state that these services were donated.

Attachment F - Administrative and Fundraising Expenses

Administrative and Fundraising Rate Exceeding 25% Explanation and Formal Plan

The CFC regulations at 5 CFR §950.203(a)(4)(i) require that organizations with administrative and fundraising rates (AFR) exceeding 25% provide, as Attachment F, an **explanation** and formal plan to reduce these expenses below 25%. The explanation must include a full discussion of the reason(s) that the organization's AFR exceeded 25%. The **formal plan** for reducing the AFR must relate to the explanation and must be reasonable under the circumstances. The formal plan must demonstrate that the organization has **established a clear objective(s)** as to how to reduce the AFR, and has **taken steps to implement the objective**. The plan should include the time frame during which it is anticipated that an AFR below 25% will be obtained.

The LFCC and OPM will consider the degree to which the AFR exceeds 25% in determining whether the plan is reasonable under the circumstances. For organizations that have participated in the CFC in prior years, the LFCC and OPM will additionally consider the organization's AFR during prior campaign years as a factor in determining whether the formal plan is reasonable under the circumstances.

Attachment G - Annual Report

Compensated Staff Member who Also Serves on Board is Compensated CFC regulation 5 CFR §950.203(a)(5) requires an organization seeking CFC eligibility to certify that it is directed by an active and responsible governing body whose members have no material conflict of interest and a majority of which serve without compensation. The regulation does not distinguish between compensation as a staff member where that staff member additionally serves on the Board, and compensation as a Board member in consideration for performing Board work. OPM interprets its CFC regulation to mean that a paid staff member who serves on the Board is a compensated member of the Board, even if the staff member is not being compensated for performing Board work.

Board Members' Terms of Office and Meeting Dates and Locations Every applicant must provide, as part of Attachment G, its Board members' terms of office and meeting dates and locations in the previous year. Copies of the organization's bylaws are not acceptable substitutes for specific terms of office. Further, information on board members' terms of office and meeting dates and locations must represent the calendar or fiscal year immediately preceding the campaign year for which the organization is applying. This information does not have to be part of the applicant's published annual report, but must be included with the application. In prior years, OPM had requested this information in support of the certification that the organization is governed by an active and responsible board. See [CFC Memorandum 2000-10](#). **Commencing with the 2005 CFC, failure to provide Board members' terms of office as well as Meeting Dates and Locations of Board Meetings will result in a denial.**

Annual Report - Contents Must Describe Activities During Year Covered Annual reports or their substitutes (as defined in CFC regulation) must include a description of the organization's services or activities during the year covered by the report and identify the Board of Directors and chief administrative personnel. OPM will not accept annual reports that contain only a description of mission and goals or historical information about services and activities without a defined timeframe.

Disclosure of Federation Dues/Fees in Annual Report Each Federation is required to include, in its annual report that is made available to the public, a statement that sets forth details regarding member dues and/or service fee arrangements with its member organizations. See [CFC Memorandum 2002-13](#).

If you have questions or comments regarding this guidance, please send them by electronic mail to: cfc@opm.gov.
