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**COMMUNITY ECONOMIC DEVELOPMENT  
PROGRAM**

**U.S. Department of Health and Human Services  
Administration for Children and Families  
Office of Community Services  
370 L'Enfant Promenade, S.W.  
Washington, D.C. 20447**

<https://www.acf.hhs.gov/programs/ocs/programs/ced>

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**Information Memorandum 2014-01**

**Date: MAY 22, 2014**

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**TO:** Community Economic Development (CED) Grantees

**SUBJECT:** Federal Recognition of Same Sex Spouses and Marriages

**PURPOSE:** To provide guidance on applying the Department of Health and Human Services' policy of recognizing same-sex spouses and marriages to all CED-funded projects.

**FROM:** The Office of Community Services

**RELATED REFERENCES:** United States v. Windsor  
Defense of Marriage Act, Pub.L. 104-199.  
Section 505(b)(3) of the Family Support Act of 1988 (P.L. 100-485)

**BACKGROUND:** On June 26, 2013, the U.S. Supreme Court, in *United States v. Windsor*, struck down the prohibition on federal recognition of same-sex marriages. OCS is issuing this guidance to implement HHS' new policy consistent with the decision in *United States v. Windsor*.

### **Policy Summary**

This guidance is intended to implement a post-Windsor policy of treating same-sex marriages on the same terms as opposite-sex marriages to the greatest extent reasonably possible. Accordingly, when applying the HHS poverty guidelines to define low-income individuals to be employed in CED-funded projects, the income of same-sex spouses shall be considered part of the "household" income if marital status is a factor when determining "household" composition and the same-sex spouses entered into a marriage valid in the state where they were married.

### **Implications for Administering CED Projects: Eligible participants as defined by HHS Poverty Guidelines**

As provided in Section 680 of the Community Services Block Grant Act (P.L. 105-285), the CED program is designed to support job creation for low-income individuals. Consistent with the CED Funding Opportunity Announcements (FOA), 75 percent of jobs created by CED projects must employ "low-income individuals," which the CED FOAs define as:

"An individual whose household income level does not exceed 125 percent of the official poverty guidelines as found in the most recent revision of the HHS Poverty Guidelines published by HHS. These guidelines may be found at <http://aspe.hhs.gov/poverty/index.shtml>."

These HHS poverty guidelines should therefore be used to determine who is a low-income individual in view of the total yearly income of his or her “household” unit. For example, according to the 2014 HHS Poverty Guidelines, a person in a household of two individuals generating less than 125% of \$15,730 of income per year would be considered a “low-income individual” when identifying persons to be employed through CED projects. If marital status is a factor when determining “household” composition then any same-sex spouses that have entered into a marriage valid in the state where they were married shall be considered part of their “household” composition and both of their incomes should be considered part of the household income. In other words, if household composition is determined by considering whether persons who live together are married, or are in a family, then there may be no distinction between same-sex and opposite-sex marriages when determining household composition.

On the other hand, if household income is determined by merely considering whether persons live together and share expenses, and marital status is not a factor, then whether an applicant is in a same-sex or opposite-sex marriage should not be a consideration. Rather, in that case, the same factors that have been applied to assess household composition to date should continue to be utilized.

### **Additional Information**

For more information on the references in this IM, see the Supreme Court’s decision in *United States v. Windsor*, available online at [http://www.supremecourt.gov/opinions/12pdf/12-307\\_6j37.pdf](http://www.supremecourt.gov/opinions/12pdf/12-307_6j37.pdf) and the DOMA legislation (Pub.L. 104-199) is available on the Government Printing Office (GPO) website at <http://www.gpo.gov/fdsys/pkg/PLAW-104publ199/html/PLAW-104publ199.htm>.

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