

Faith and federal dollars

While President Bush wants to give more money to faith-based groups that provide social services, opponents argue such efforts cross the line between church and state.

BY LAURIE CLEWETT

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Faith in Action, a national program of The Robert Wood Johnson Foundation, makes grants to local groups of volunteers from all faiths who help others.

During his second week in office, President Bush proposed a new federal Office of Faith-Based and Community Initiatives to encourage collaboration between faith-based organizations and the government. Bush's announcement has spurred debate about the merits and dangers of such initiatives, and has forced many states to take a closer look at the

"Charitable Choice" provisions that already apply to some federal funds.

Charitable Choice is designed to make it easier for faith-based organizations to procure government contracts without having to give up their religious nature. Although religiously affiliated organizations have contracted with state and federal governments for years to provide social services, Charitable



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Choice is a significant departure from previous policy. In fact, these new provisions frequently mean that federal law contradicts state laws, procurement policies and even their constitutions.

In the past, social-service providers affiliated with religions have tended to form separate organizations from the groups that sponsor them. Catholic Charities, Lutheran Social Services, United Jewish Communities and the Salvation Army are some well-known examples. While these groups may

have been inspired by religious missions, they traditionally have been prohibited from using overtly religious symbols, references and practices when using government funds.

Charitable Choice is designed to let churches and groups receive government money without having to remove the religious content from their programs. This means, for example, that they can display religious symbols and use religious principles and language when serving clients. They also can base their hiring and firing decisions on criteria such as religious affiliation, sexual orientation or marital status. However, in most cases, they cannot use government funds to proselytize, conduct worship services or Bible study, or for other doctrinal instruction. In addition, providers can't require clients to participate in religious activities, and a secular alternative must be available for people who don't want to be served by a faith-based organization.

Attorney General John Ashcroft, then-U.S. senator from Missouri, first introduced Charitable Choice as part of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, more commonly known as the federal welfare reform act. Under PRWORA, Charitable Choice applies to Temporary Assistance to Needy Families, food stamps, Supplemental Security Income and Medicaid funds. Since 1996, federal lawmakers have applied similar provisions to Welfare-to-Work, Community Services Block Grants and federal drug-treatment funds.

The Bush administration hopes to expand Charitable Choice even further to include funds distributed by the departments of Justice, Health and Human Services, Housing and Urban Development, Labor and Education. The specific requirements depend upon the type of funds and whether they are procured through contracts or vouchers. When programs combine

state or local and federal funds, Charitable Choice provisions apply to all of the funds used.

Effective providers

Advocates claim that faith-based organizations are often among the most effective social-service providers, and that government should collaborate with them to address intractable social problems. They believe religious organizations are better able to reach the long-term homeless, troubled youth, people with substance-abuse problems and prisoners, for example.

Stephen Lazarus of the Center for Public Justice, a Christian policy research group that tracks Charitable Choice, believes faith-based groups can achieve results that government and other nonprofits cannot. "I do believe they bring some unique resources to the table," Lazarus said. "Faith-based organizations and religious nonprofits are often at the heart of the community. They're trusted by some of the people that they serve. It's maybe a less clinical type of relationship, less bu-



Sharri Gaines, a volunteer with the Triangle AIDS Interfaith Network Program in North Carolina, helps Bill Brantley, an AIDS patient, maintain his rose garden.

reaucratic, and I think they speak a moral language which government is less inclined to do."

Supporters also argue that faith-based organizations are already doing the work and could do it more effectively with government aid. Michigan Rep. Doug Hart recently sponsored a bill to create a Community and Faith Liaison in his state. "The reason why we include the words faith-based in there is because when you look in your yellow pages, you find out that a disproportionate amount of services that provide charity or assistance to low-income families, and to vulnerable teens and children, are faith-based," he said. "That's the reality, and we're recognizing that reality in including that name in this legislation."

Lazarus said the move to collaborate with faith-based groups is part of a larger trend. "I think there's a new sense of urgency in social services to collaborate. There's a recognition of perhaps some of the limits of what government can do just working on its own, and the need to build some new partnerships," he said.



Charitable Choice would make public funds available to current faith-based community services. Shown is a Faith in Action volunteer helping an elderly neighbor.

Charitable Choice proponents believe the historical relationship between government and religious-service providers has been overly restrictive. The program removes what they see as dis-

crimination against faith-based groups in general, and small organizations in particular, which may not have the expertise, staff capacity or lobbying presence necessary to procure con-

States look into Charitable Choice

Most observers say that states have been slow to adjust to federal Charitable Choice provisions, and many officials are just beginning to understand what they entail. Stephen Lazarus of the Center for Public Justice agreed. "As recently as a year and a half ago," he said, "I was receiving calls from directors of TANF saying, 'A journalist just called asking what my state was doing with Charitable Choice. I have to be really honest with you ... What is Charitable Choice? And what is my state doing with it?'"

Carol Devita of the Urban Institute said, "States were asked to implement a lot of different things when the 1996 [welfare reform] legislation was passed. I think Charitable Choice and the faith-based component is one that was on a slower track. It took a long time for state officials and even the religious communities to learn about Charitable Choice and what that might mean from their various perspectives."

President Bush's recent proposals, however, have pushed Charitable Choice into the spotlight. According to Americans United for the Separation of Church and State, at least 15 states were debating related bills, resolutions or appropriations this session. Legislators engaged in often-heated debates in Alabama, Alaska, California, Colorado, Florida, Georgia, Hawaii, Iowa, Michigan, Missouri, Oklahoma, Oregon, Virginia, Washington and Wisconsin. As of mid-April, most of the measures were in committee.

Virginia recently joined Texas, Arizona and Wisconsin in adopting federal Charitable Choice guidelines. California and Florida were considering bills this session on state procurement practices when contracting with faith-based organizations, while Colorado voted down such a bill in committee. Missouri lawmakers debated a proposed constitutional amendment to remove the ban on public aid for religious purposes and institutions. In Georgia, a similar amendment failed in the House, but will be brought up again in next year's session.

This session, lawmakers also introduced bills aimed at involving faith-based organizations in providing services such as child care, foster care, substance-abuse treatment and prevention, education, food pantries and prisons.

Legislators in Michigan and Missouri introduced bills to establish a state Office of Faith-based and Community Liaison in their executive branches. California, Oklahoma and New Jersey already have similar offices. According to the Center for Public Justice, at least 16 states have some sort of liaison. These officials help faith-based and other community-based groups identify state resources and navigate the procurement process. Some of them offer workshops and technical assistance, while others act as clearinghouses for information on Charitable Choice and "best practices."

Many of these liaisons are housed in state departments of

tracts. "We don't want to ignore successful, small organizations," Hart said. "And from what we hear, they're the ones who tend to be ignored by government and disenfranchised in the process of procuring government monies to provide services."

Crossing the line?

Opponents of Charitable Choice, however, argue that it violates the constitutional separation of church and state. People across the political spectrum have criticized Bush's proposal.

Americans United for Separation of Church and State is one of the leading opponents. "We don't believe that one can constitutionally support what amounts to the ministry or the mission of a church with state or federal tax dollars," said the Rev. Barry Lynn, the group's executive director. As of mid-April, 26 other national organizations had joined them to form the Coalition Against Religious Discrimination.



Valerie Malone, left, who is developmentally disabled, shops for her elderly homebound neighbor, Adeline Whiteley. The program is sponsored through the Jewish Family Service of Orange County, a Faith in Action group.

Lynn and others worry that organizations receiving funds will proselytize and try to convert clients. Although existing and proposed laws prevent faith-based organizations from using government funds for direct religious purposes, "that is absurd legal fiction. Because money is interchangeable, and if you use government funds to buy the bread, you just have more private funds to buy the Bibles," Lynn said. Moreover, nothing prevents privately-funded staff members from trying to convert clients.

Critics have raised similar concerns about the requirement that states provide secular alternatives. In practice, they say, there may be no alternative to a faith-based provider, especially in rural areas. In addition, clients may not know they are entitled to a secular alternative, and by the time they request and are provided with one, their religious freedoms may already have been violated.

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human or social services while others can be found in the employment or human resources departments. New York's liaison is located in the Office of Temporary and Disability Assistance, while North Carolina's Rural Economic Development Center operates a Center for Faith Initiatives.

According to the Welfare Information Network, states engage in three types of relationships with faith-based groups: direct financial collaboration, which usually takes the form of performance-based contracts; indirect financial collaboration, including subcontracting and the use of vouchers; and nonfinancial cooperation, such as informal referrals, memorandums of understanding and sharing staff, office space or materials.

Not surprisingly, Texas under the leadership of former Gov. George W. Bush has been one of the most active states in implementing Charitable Choice. Bush's home state has 11 regional faith-based liaisons within the Department of Human Services, while the Texas Workforce Commission has appointed a liaison for each local work-force board.

Wisconsin, Indiana and Ohio also took notable early steps to implement Charitable Choice. As governor of Wisconsin, Tommy Thompson made subcontracting with faith-based groups an optional performance standards criterion for W-2 contractors. Indiana Gov. Frank O'Bannon established a program called Faith Works Indiana in 1999, which has been

hailed by proponents as a model. The state's Department of Human Services contracts with a private group to provide outreach, training and technical assistance to faith-based organizations. Ohio issued a legal brief to inform state and county employees of their obligations. Governors in Texas, Colorado and Arkansas have issued executive orders directing state agencies to evaluate and change their procurement policies.

In recent years, Texas, Virginia and Wisconsin have all authorized task forces to study collaboration with faith-based groups. This year, legislators in Florida, Missouri and Oregon introduced bills to establish similar studies. Meanwhile, the Kansas House recently created a Faith-Based and Charity Initiative Subcommittee of the Appropriations Committee.

Rev. Barry Lynn of Americans United believes many states have delayed implementation in order to avoid being sued. Currently, there are Charitable Choice lawsuits pending in California, Kentucky, Texas and Wisconsin, and one related to a Christian prison program in Iowa.

Without a doubt, states can no longer ignore the impact of federal Charitable Choice provisions on their programs, laws and procurement policies. Whether they agree with the provisions or not, state officials need to learn what the federal laws entail, and they need to educate themselves about the legal, historical and philosophical issues involved. — LC

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Americans United also objects to the fact that Charitable Choice exempts religious providers from certain civil-rights laws and permits what the group sees as discriminatory hiring practices. “It seems grotesquely unfair to have all the taxpayers asked to support a program which they, by dint of their religious affiliation, might not be eligible to apply for,” Lynn said.

Supporters, however, insist these exemptions are necessary. “This is a right that’s given to them in the 1964 Civil Rights Act,” Lazarus said. “Government has to respect the religious integrity of the organization, and that can be jeopardized if it is required to hire people who don’t agree with the basis of the program.”



*Michigan Rep.
Michael Murphy*

Lazarus compared faith-based service providers with environmental or family planning groups — even politicians — who receive public funds but hire only people who share their beliefs. “They would discriminate against people, if you want to use that word, in the sense that the person’s not qualified if they can’t carry out the duties of the office,” he said.

Opponents believe that Charitable Choice violates not only the federal Constitution, but also many state constitutions. According to Lynn, 25 states have strong constitutional provisions separating church and state. “The idea of the welfare-reform act in regard to Charitable Choice was that the provisions in the bill were intended to trump state constitutional provisions in regard to church-state matters,” he said. “It’s a dangerous precedent.”

Other issues

Others worry that accepting government money might be bad for religious

groups. Many religious leaders are wary of Charitable Choice because they believe it could threaten their institutions’ independence. They worry about becoming dependent on government financing, and about the government oversight that comes along with it, such as financial audits.

Michigan Rep. Michael Murphy, who is also the pastor of a church he founded, wondered whether religious groups will continue to be a “prophetic voice.” “Will the faith-based organizations have their hands tied behind their backs in terms of speaking out about social injustices?” he asked. “Does it become an arm of the government?”

Then there is the inevitable question of politics, which has been at the center of the debate. From the left to the right, everyone wants to know: Which religions are eligible for government funding? Who decides, and on what basis?

“I’m supportive of faith-based programs, but I’m cautious about what I’ve been hearing because of the element of politics,” Murphy said. “I think one of the primary questions is how do we define ‘faith-based,’ and who’s eligible to provide faith-based services with government resources? Is it based on politics? Is it based on beliefs?”

Some observers wonder whether faith-based organizations have the capacity — both individually and collectively — to provide more social services. “Churches are very active — they do a lot of social ministries and social outreach,” said Carol Devita of the Urban Institute. “But most of their services are directed toward what we call emergency services — things like food banks, soup kitchens, overnight shelters. And many of these programs are run by volunteers. I think that capacity is a very major question that has to be raised.”

To offer more types of services, religious groups need to assess whether they have the staff and expertise not



Faith in Action supports neighbors helping neighbors.

only to run their programs, but also to apply for funds and comply with monitoring requirements. In addition, most government contracts with faith-based organizations are performance-based, which means groups may need to invest significant capital outlays before they receive any funds.

State Rep. Virg Bernero of Michigan worries that with a state budget in which spending on social services is likely to decrease, the push to involve more organizations will redirect funds from existing providers — faith-based and secular — with proven track records. “I do think you’re setting yourself up and I think you’re setting the organizations up for disappointment,” he said. “Many of them who have testified seem to have this vision of sugar plums. They have this vision that state government is going to come down and hand out these goodies, and I don’t know where it’s going to come from.”



*Michigan Rep.
Virg Bernero*

Supporters, on the other hand, believe increased competition means better services. “At the end of the day, what we want to do is increase the pool of talent and get better outcomes,” Hart said. “We don’t care, ultimately, if they’re faith-based or secular. We just want to provide the best services available.” ★