

Charitable*Choice*
for
Welfare
Community Services

An Implementation Guide for State,
Local, and Federal Officials

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The Center for Public Justice

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This guide is not legal advice nor intended to create any attorney-client professional relationship. Officials should consult an attorney for specific advice about how they must implement Charitable Choice.

ChapterOne

The CharitableChoice Opportunity

Throughout the nation, officials concerned with welfare, crime and gangs, workforce development, fatherhood, neighborhood revitalization, and many other challenges are reaching out to community groups, churches and other houses of worship, ethnic associations, nonprofit organizations, and other social groups in the search for the most effective help for parents, children, families, and neighborhoods in distress. By collaborating with community groups, nonprofits, and faith-based organizations, government programs gain not only specific services but also the strengths of trusted institutions that surround those in need and have a personal and long-term concern and involvement in their success.

Congress has strongly encouraged the collaborative approach in its redesign of welfare and other federal-state social programs. And it has gone beyond generally encouraging collaboration to changing the rules for procurement. With the Charitable Choice provision, Congress has expanded the ability of government officials to procure services from religious providers using TANF, Welfare-to-Work, Community Services Block Grant, and some other federal funds.¹ Charitable Choice does not transfer welfare and social services to churches and charities. It does not presume that faith-based organizations always provide the best services. Instead, Charitable Choice is a redesign of procurement rules to eliminate barriers that prevented many religious organizations from working with government. The intent and effect of Charitable Choice is to level the playing field in order to expand the range of providers to whom officials can turn to find effective assistance.

Of course, governments have contracted with religious providers for many years. But religion was very confined in these collaborations. Government could work with “religiously affiliated” or “religion-sponsored” agencies that operate secular programs, not with “pervasively sectarian” organizations. Although practice often was less restrictive than this, the presumption that programs and providers must be largely secular cast a shadow over the collaborations and

¹In late 2000, Congress attached Charitable Choice language to federal drug treatment funds. See ch. 2 for a note about this. This guide deals specifically only with TANF, WtW, and CSBG funds. Drug treatment funding will be covered in a later publication. Check our website for publication information and updates: www.cpjustice.org.

barred from participation many religious organizations, including many that serve clients effectively and respectfully.

Charitable Choice redesigns procurement policy to eliminate this barrier to participation. It expands the range of eligible providers in a way that honors the Constitution, upholds government's responsibilities, and protects the civil liberties of people needing assistance.

The new inclusive rule for procurement rests on four principles:

- ***A Level Playing Field.*** Faith-based providers are eligible to compete for procurement funds on the same basis as other providers, neither excluded nor included because they are religious, too religious, or of the wrong religion.
- ***Respect for Allies.*** The religious character of faith-based providers is protected by allowing them to maintain a religious environment and to hire only employees committed to the organization's faith-based way of providing the services government specifies.
- ***Protecting Clients.*** Providers must serve all without religious discrimination, and government must ensure a secular alternative for clients.
- ***Church-State Separation.*** All government funds must be used to fulfill the public social-service goals, and no direct government funding can be diverted to inherently religious activities, such as worship, sectarian instruction, and proselytization.

The Charitable Choice principles are carefully crafted to honor simultaneously government's imperative to obtain effective services, the right of the needy to get help without religious discrimination, and the need of faith-based organizations to maintain their religious character as they collaborate with others.

What's Different with Charitable<i>Choice</i>?	
<i>Old Restrictive Rule</i>	<i>New Inclusive Rule</i>
only religiously affiliated providers are eligible	all religious organizations are eligible
a religious environment is not allowed	a religious environment is allowed
hiring decisions must ignore religion	agreement with religious basis can be required

The old restrictive policy protected clients, but only at the expense of excluding many providers and by requiring participating religious organizations to downplay the very religious character that

makes them distinctive. Charitable Choice makes it possible for faith-based providers to be included by protecting clients of religious programs, ensuring that the clients have access to a secular alternative, and making sure that government funding is used not to establish religion but to purchase effective assistance.²

Charitable Choice breaks with the past by clearing away barriers to full involvement by faith-based providers in procurement. But it maintains the essential values that the former restrictive rule was designed to uphold. As former Vice-President Al Gore said in proposing the expansion of Charitable Choice to new government programs,

As long as there is always a secular alternative for anyone who wants one, and as long as no one is required to participate in religious observances as a condition for receiving services, faith-based organizations can provide jobs and job training, counseling and mentoring, food and basic medical care. They can do so with public funds—and without having to alter the religious character that is so often the key to their effectiveness.³

Charitable Choice is not an initiative to turn social services over to churches and charities and to eliminate government's role in the social safety net. Instead, it is a new inclusive rule for how government spends its money to fulfill its responsibilities to assist the needy. Charitable Choice is not a quota program for religion or a special fund for churches. It is a new rule for state procurement of social services that creates a level playing field for all providers, not special favors for faith-based organizations. Charitable Choice is not a program to fund religion because of the importance of moral values or some notion that faith is a magic cure for every need. Under Charitable Choice, faith-based providers have to compete, just as every other provider. Under Charitable Choice, government retains the authority and responsibility to choose the best provider and to require every organization it funds to be accountable for its use of government money and for producing successful outcomes.

Should government collaborate with faith-based organizations? Charitable Choice does not obligate officials to contract with every religious service program that applies for funding. What it does

²Charitable Choice notes that procurement programs that allow faith-based organizations to take part must be implemented "consistent with the Establishment Clause of the United States Constitution." Congress specifies how that is to be done in the framework of rights and responsibilities it lays out in Charitable Choice. See the Resources appendix for articles dealing with the constitutional issues.

³"Remarks as Prepared for Delivery by Vice President Al Gore on the Role of Faith-based Organizations," Salvation Army, Atlanta, May 24, 1999.

require is that government not discriminate on the basis of religion against any faith-based provider that desires to compete for government funds. The requirement is a level playing field so that faith-based organizations, along with other providers, have a chance to demonstrate whether they can provide the desired social services. Faith-based organizations are not to be excluded because of their faith commitments nor because of a mere presumption that they may be unable to comply with a state's reporting or quality standards.

In the language of the law, the purpose of Charitable Choice is to permit government to contract with religious organizations “on the same basis as any other nongovernmental provider without impairing the religious character of [the] organizations, and without diminishing the religious freedom of beneficiaries.” Charitable Choice is a non-optional procurement rule—a string or condition that accompanies certain federal funds. But it also represents an opportunity for officials who are searching for effective assistance programs. By replacing the exclusionary procurement rule with an inclusionary one, Charitable Choice makes it possible for officials to select the most effective programs, whether they are offered by faith-based or secular organizations.

Chapter *Two*

Charitable *Choice* Basics

Charitable Choice is a set of new requirements for government procurement of services when using certain federal funds. Whether or not officials or agencies are particularly interested in adopting a collaborative or community-oriented strategy for welfare and other social services, the Charitable Choice requirements must guide the procurement process whenever these federal funds are used for procurement. In some cases, officials may decide to provide all of the services in-house, through government agencies. In those cases, Charitable Choice is irrelevant because there is no procurement. Only in that sense is Charitable Choice optional.

This chapter provides a brief explanation of the features of Charitable Choice.⁴ Charitable Choice has now been enacted in several somewhat different forms, although the core principles are the same. It was originally enacted as part of federal welfare reform in the Personal Responsibility and Work Opportunities Reconciliation Act of 1996 (PRWORA).⁵ This version was extended to cover the Welfare-to-Work program when WtW was enacted in 1997 as an amendment to PRWORA.⁶ The 1998 reauthorization of the Community Services Block Grant (CSBG) program includes a different version of Charitable Choice.⁷ (Congress also added versions of Charitable Choice to federal substance abuse prevention and treatment funds in late 2000. That application of Charitable Choice is not covered in this guide.⁸)

⁴ For a detailed description of the original Charitable Choice provision, see *A Guide to Charitable Choice* (Center for Public Justice and the Christian Legal Society's Center for Law and Religious Freedom, 1997).

⁵ 42 U.S.C. § 604a; from PRWORA, Pub. L. 104-193, Title I, § 104, Aug. 22, 1996, 110 Stat. 2161.

⁶ The Welfare-to-Work program was § 5001 of the Balanced Budget Act of 1997, Pub. L. 105-33. This section became part of 42 U.S.C. § 603, which is among the sections covered by Charitable Choice in PRWORA. See the May 4, 1999, CRS Memorandum to Sen. John Ashcroft from Kathleen S. Swendiman, "Application of Charitable Choice Provisions to Part A of Title IV of the Social Security Act."

⁷ 42 U.S.C. § 9920; from Human Services Reauthorization Act of 1998, Pub. L. 105-285, Title II, § 201, Oct. 27, 1998, 112 Stat. 2749.

⁸ SAMHSA reauthorization through the Children's Health Act of 2000, Pub. L. 106-310, § 3305, Oct. 17, 2000, 114 Stat. 1212; and "Prevention and Treatment of Substance Abuse; Services Provided Through Religious Organizations," § 144 of H.R. 5662, Community Renewal Tax Relief Act of 2000, adopted Dec. 15, 2000, as part of congressional adoption of H.R. 4577, Consolidated Appropriations Act 2001.

The differences between the PRWORA and CSBG versions of Charitable Choice are noted in this chapter. The explanations reference the relevant subsections of the two texts, which are reprinted in the appendices.

The two versions of Charitable Choice apply to three different federal programs, each with its own administrative structure, relations with state and local authorities, target populations and needs, and array of additional regulations. The discussion here is concerned only with the effect of Charitable Choice on procurement policies and practices within the different programs, and not on other aspects of the programs. Because the programs have different structures, Charitable Choice will be a responsibility for varied sets of government officials, e.g., state and local welfare and workforce officials, or federal, state, and local officials concerned with Community Action Agencies. The discussion that follows uses generic terms such as “officials” and “government,” except where a specific reference is essential.

Federal Funds Governed By Charitable Choice

Federal Funds	Law	Version of Charitable Choice	Officials Who Must Comply
Temporary Assistance for Needy Families (TANF) ⁹	PRWORA, 1996	PRWORA	state (and local, by extension)
Welfare-to-Work formula and competitive grants	Balanced Budget Act, 1997	PRWORA	federal and state (and local, by extension)
Community Services Block Grants	Human Services Reauthorization Act, 1998	CSBG	federal, state, and local

Proposals to extend Charitable Choice to many other federal programs, or to all federal procurement and to all federal funds sent to states (except for education and child care), have been proposed in Congress. Because of variations in Charitable Choice, the following explanations may not be fully applicable to some of these new proposals.

⁹Charitable Choice in PRWORA also applies to food stamps, SSI, and Medicaid. See CRS memo, “Questions Re Section 104 of P.L. 104-193 Concerning Services Provided by Charitable, Religious, or Private Organizations,” Sept. 9, 1996 (American Law Division), and CRS memo, “Application of Section 104 of P.L. 104-193, Oct. 18, 1996” (Education and Public Welfare Division).

Basic Features of Charitable Choice

PRWORA

CSBG

Type of Financial Relationship		
contracts, subcontracts, grants	✓	✓
vouchers or certificates	✓	
Eligibility of Faith-based Providers		
no exclusion of faith-based providers due to their religion	✓	✓
avoid state and local funding restrictions by keeping federal funds separate	✓	
commingled funds are governed by the federal rules	✓	✓
Rights of Faith-based Providers		
retain control over religious mission	✓	✓
retain control over internal governance	✓	✓
may maintain religious atmosphere with icons, etc.	✓	✓
retain exemption permitting religious criteria in employment	✓	✓
separate 501(c)(3) retains all religious rights	✓	✓
maintain independence from government	✓	
if a Community Action Agency, must have tri-partite board		✓
Obligations of Faith-based Providers		
same fiscal accountability standards as others	✓	✓
must create separate account for government funds		✓
may create separate account to limit audits	✓	
may not fund inherently religious activities with contracts or grants	✓	✓
no funding restriction if funding via vouchers	✓	
Protections for Clients		
must be served without religious discrimination	✓	
cannot be required to actively take part in inherently religious events	✓	
government must provide a non-objectionable alternative	✓	
Subcontracting		
contractors and subcontractors have Charitable Choice rights and duties	✓	✓
Compliance		
officials can be sued to force compliance with Charitable Choice	✓	

The Requirements of Charitable Choice

A. Types of Financial Relationships

Charitable Choice applies to the use of covered funds to procure services from nongovernmental providers by means of contracts and grants [grants are implicit in PRWORA subsec. (a)]. If a provider in turn subcontracts for services, the terms of the subcontracts must conform with Charitable Choice [CSBG subsec. (e); implicit in

PRWORA]. States may use TANF funds to provide services through a voucher mechanism in which the government gives the client a voucher or certificate which is redeemed for services at an eligible provider. The provider then submits the vouchers to the government for payment for services rendered [PRWORA subsec. (a)].

B. Eligibility of Faith-based Providers

When using the covered funds to procure services, officials may not discriminate against a faith-based provider “on the basis that the organization has a religious character.” Faith-based organizations are eligible to compete in procurement programs “on the same basis” as other nongovernmental organizations [PRWORA subsec. (c); CSBG subsec. (a)]. A faith-based or religious provider cannot be excluded because it is religious, or too religious, or “pervasively sectarian.” Decisions about awarding government funds are to be made on the basis of the competence of the provider, not its religious or secular character.

If state or local funds are commingled with the federal TANF, WtW, or CSBG funds, then all of the funds are subject to Charitable Choice (Supremacy Clause of the U. S. Constitution). With TANF and WtW funds, if a state has a constitutional or statutory prohibition on awarding state funds to faith-based organizations and state officials want their state rules to apply to state funds, then they must keep the federal and state funds separate [PRWORA subsec. (k)].¹⁰ CSBG has no specific language on commingling; however, its Charitable Choice requirements apply to “any program carried out by the Federal Government, or by a State or local government” using the funds [CSBG, subsec. (a)].

C. Rights of Faith-based Providers

Faith-based providers that accept funds subject to Charitable Choice have these rights:

- ***Religious Mission.*** Providers retain control over “the definition, development, practice, and expression of [their] religious beliefs” [PRWORA, subsec. (d); CSBG, subsec. (b)].
- ***Internal Governance.*** Providers cannot be required to alter their “form of internal governance” [PRWORA, subsec. (d); CSBG, subsec. (b)]. They need not, for example, change the composition of a governing board to mirror the ethnic or racial makeup of a community nor restrict clergy to a nonvoting role. However, a faith-based organization that becomes a Community Action Agency assumes specific administrative responsibilities and is subject to the requirement of having a tri-partite board [CSBG, subsec. (b) and § 676B].

¹⁰ The subsection specifies that Charitable Choice does not preempt state restrictions only in the case of *state* funds. On the intent of Congress concerning subsec. (k), see *A Guide to Charitable Choice*, pp. 25f.

- ***Separate 501(c)(3) Organization.*** Some programs require houses of worship to establish a separate organization to receive the government funds and to provide the services. However, under all versions of Charitable Choice, such a separately incorporated organization is included among the religious organizations that have the various rights and responsibilities secured by Charitable Choice. Officials may require a separate organization but not that the separate organization be diminished in its religious character.
- ***Religious Environment.*** Providers cannot be required to remove “religious art, icons, scripture, or other symbols” from their buildings and places of service [PRWORA, subsec. (d); CSBG, subsec. (b)]. By extension, providers cannot be excluded from eligibility due to religious-sounding names.
- ***Employment Exemption.*** In accepting federal funds (and commingled state or local funds) faith-based providers retain their exemption under Title VII of the Civil Rights Act of 1964 that authorizes them to take religion into account in hiring and firing employees [PRWORA, subsec. (f); CSBG, subsec. (b)]. Charitable Choice acknowledges that a faith-based organization that is unable to select employees who accept its faith-shaped social-service mission cannot long remain viable. Faith-based organizations, like other providers, are subject to other federal nondiscrimination laws.¹¹ However, state and local nondiscrimination laws that normally attach to government funding apply only if they do not compromise a faith-based provider’s religious character, which is expressly protected in all versions of Charitable Choice (see “Religious Mission” and “Internal Governance,” above).
- ***Independence.*** By accepting TANF or WtW funds, faith-based providers do not give up their “independence from Federal, State, and local governments” [PRWORA, subsec. (d)].

D. Obligations of Faith-based Providers

The following obligations are assumed by faith-based providers that accept funds covered by Charitable Choice:

- ***Fiscal Accountability.*** Faith-based providers are subject to the same accountability standards as other providers for their use of government funds [PRWORA, subsec. (h); CSBG, subsec. (d)].
- ***Separate Accounts.*** Faith-based providers must segregate (CSBG) or may choose to segregate (PRWORA) the government funds in a separate account. If there is a separate account, then fiscal audits are limited to such an account [PRWORA, subsec. (h); CSBG, subsec. (d)]. It is strongly recommended that faith-based providers in all cases do segregate funds.

¹¹Title VI of the Civil Rights Act of 1964 (prohibiting discrimination on the bases of race, color, and national origin); the Age Discrimination Act of 1975 (prohibiting discrimination on the basis of age); Sec. 504 of the Rehabilitation Act of 1973 (prohibiting discrimination against otherwise qualified disabled individuals, including individuals with a contagious disease or an infection such as HIV); and Title IX of the Educational Amendments of 1972 (prohibiting discrimination in educational institutions on the bases of sex and visual impairment).

- ***No Government Funding of Inherently Religious Activities.*** No funds received directly from government (contracts, subcontracts, grants) can be expended on inherently religious activities, i.e., “sectarian worship, instruction, or proselytization” (PRWORA, subsec. (j); CSBG, subsec. (c)). Such activities include prayer, evangelization, classes in holy scriptures, training to become a disciple, and worship services. Providers, of course, can use private funds for such activities. This expenditure limitation is not applicable in the case of TANF or WtW vouchers, because then the faith-based organizations receive the funds as a result of the wholly independent choices of clients.

E. Protections for Clients

Specific protections for the religious liberty of clients of faith-based programs are enumerated in the PRWORA version of Charitable Choice. Ways to protect clients in the case of CSBG funding are suggested in the next chapter on compliance.

The PRWORA protections are:

- ***Service Without Religious Discrimination.*** Providers may not discriminate against a client or potential client “on the basis of religion [or] a religious belief” [PRWORA, subsec. (g)].
- ***No Religious Coercion.*** Providers may not discriminate against a client due to a client’s “refusal to actively participate in a religious practice” [PRWORA, subsec. (g)]. Thus inherently religious practices such as prayer, doctrinal instruction, and evangelization must be separate from the government-funded services and such practices must be voluntary. If a client objects to the religious character of a provider or to the voluntary religious activities a provider offers, that client should be directed to a provider more acceptable to the client.
- ***Secular Alternative.*** If a client or potential client objects to the “religious character” of a faith-based provider, then the government, not the faith-based organization, is obligated to arrange for timely, accessible, and equivalent service from another provider [PRWORA, subsec. (e)].

F. Subcontracting

Contractors that in turn subcontract assume, when acting in that capacity, the duties outlined by Charitable Choice, and the subcontractors assume the Charitable Choice responsibilities and receive the Charitable Choice protections [CSBG, subsec. (e); implicit in PRWORA]. If a Community Action Agency, for example, obtains services from nonprofit or for-profit providers, it must allow faith-based organizations to compete for those subcontracts. If a faith-based organization wins a subcontract, the contractor cannot require the organization to give up its religious character, and the contractor

must be prepared to offer an alternative to any of that subcontractor's clients who object to receiving services from a religious provider. On the other hand, the subcontractor must not pressure clients to participate in inherently religious activities and it must not spend the government funds on such activities.

G. Compliance

Charitable Choice is a non-optional set of federal requirements that accompanies certain federal funds. Congress specified that individuals or organizations can bring a civil suit in state court to force officials to comply with Charitable Choice in the case of TANF and WtW funds [PRWORA, subsec. (i)].

The Distinctiveness of Charitable*Choice*

Many of the requirements Charitable Choice applies to procurement are very different from, and in some cases even the opposite of, the requirements that accompany other federal, state, or local funds. This means that officials must not simply assume that their procurement policies and practices are in compliance with Charitable Choice, even if they have contracted extensively with religiously affiliated providers in the past. It also means that officials should take specific action to ensure that all those involved in the procurement process apply the Charitable Choice requirements when using TANF, WtW, or CSBG federal funds and commingled state or local funds, even though different requirements must be followed when expending other funds.

Chapter *Three*

Reforming Procurement to Comply with **Charitable***Choice*

Charitable Choice is the rule for procurement when officials spend federal TANF, WtW, and CSBG funds, as well as when those funds are commingled with state or local funds. A state or local government does not need to adopt or accept Charitable Choice. It is the governing rule. But Charitable Choice will make little difference in the services government funds, for poor families needing help, or for faith-based organizations that want to provide assistance to those families, if the various governments do not take specific action to ensure that their procurement practices are in compliance.

Compliance Requires A Formal Review

Because Charitable Choice institutes a new rule of inclusion for procurement, officials should anticipate that they will need to modify current procurement practices in order to meet the new requirements. It is possible that procurement practices in some programs are in compliance without any changes being necessary, but this is very unlikely. Charitable Choice, in fact, was drafted as a point-by-point reversal of overly restrictive requirements present in federal and state procurement laws and regulations.¹² Moreover, even when past formal procurement requirements did not bar faith-based providers, actual practice was often too limiting due to a misapplication of Supreme Court rules designed for the special case of K-12 schools. So officials should expect that their procurement practices are too restrictive unless they have recently evaluated those practices.

Expanded collaboration by officials with houses of worship to obtain volunteer mentors for welfare clients making the transition to employment or to coordinate assistance is not evidence of compliance with Charitable Choice. Charitable Choice is a new rule about procurement—about who may receive funds and on what basis. Flourishing nonfinancial collaborations can be very valuable for needy families but they are not a substitute for procurement reform.

¹² For examples of restrictions, see Carl Esbeck, *The Regulation of Religious Organizations as Recipients of Governmental Assistance* (Center for Public Justice, 1996); Stephen Monsma, *When Sacred and Secular Mix: Religious Nonprofit Organizations and Public Money* (Rowman & Littlefield, 1996).

Compliance Is Not . . .

- long-standing contracts with the Salvation Army or Catholic Charities whose terms do not measure up to the Charitable Choice requirements;
- allowing churches, synagogues, and mosques to accept federally funded child care certificates;
- inviting faith-based organizations to apply for government funds but without changing the procurement requirements;
- inviting faith-based organizations to compete in procurement if they will set aside their religious character;
- allowing houses of worship to provide volunteer mentors to welfare families but not allowing church-related programs to compete for procurement dollars;
- allowing faith-based organizations to take part in procurement but without instituting adequate protections for the religious liberty of clients.

Compliance Is . . .

- making sure that procurement policies and practices meet the new requirements established by Charitable Choice.

A lengthy list of contracts with providers such as Lutheran Social Services, Jewish Vocational Services, Catholic Charities, or the Salvation Army does not prove compliance with Charitable Choice, either. These contracts, which often predate Charitable Choice, are almost certainly more restrictive than the law now permits and requires. The key is not whether officials contract with religious organizations but on what terms they contract with them.

Nor is it sufficient to total up the number of churches and synagogues that provide federally funded child care in a locality. Houses of worship and other faith-based organizations have been eligible since late 1990 to accept federal funding in the form of certificates or vouchers to provide child care to poor families.¹³ The federal requirements for child care funding via certificates are similar to Charitable Choice, but they stem from a different law and apply to a different source of federal funds than does Charitable Choice. Allowing houses of worship to accept government funds to provide child care to welfare families or the working poor is no substitute for complying with Charitable Choice when procuring social services using TANF, WtW, or CSBG funds.

¹³ Child Care and Development Block Grant Act, 1990, P.L. 101-58, reauthorized in 1996 as part of PRWORA, 42 U.S.C. §§ 9858-9858q.

Coming into Compliance

To be in compliance with Charitable Choice, officials need to evaluate their procurement policies and practices against the new requirements, change those rules and actions that do not match, and monitor the procurement process to be sure that the new requirements are implemented.

Which regulations, documents, decision rules, or forms need to be changed? The only way to know is to institute a formal review process. Procurement documents such as contracts and civil rights compliance forms should be checked for requirements that are now illegal. Requests for Proposals and other public notices about procurement opportunities and requirements should be examined to eliminate any bias against faith-based providers. Program and procurement officials may need new instructions about allowable criteria for assessing bids and what to watch for when monitoring contracts. They may need to be authorized and directed to secure alternative providers to ensure the religious liberty of clients. Necessary changes to the wording of contracts and grants may require regulatory change and statutory amendments. If a state has devolved welfare planning to counties or regional bodies, then it must be sure that these authorities comply with Charitable Choice.

A Compliance Checklist

A checklist is provided to aid in assessing procurement policies and practices for compliance.

Coming into Compliance: Examples

Faith-based Eligibility. To ensure that faith-based organizations are not illegally excluded from the procurement process, officials need to look at the specific language used in Requests for Proposals, public notices of funding opportunities, and the contract or grant documents themselves. Are there any statements that suggest only secular organizations are eligible or that exclude religious, “sectarian,” or church-based organizations or programs? If the government program operates by distributing vouchers or certificates to eligible clients, officials should examine the regulations and paperwork that defines which organizations are eligible to accept vouchers to provide services and eliminate any language that excludes religious organizations or that discourages them from applying to participate.

Better yet, officials should insert, where appropriate, language welcoming the participation of faith-based organizations on an

Sample Charitable Choice Contract Language

A religious or charitable organization is eligible to be a contractor on the same basis as any other private organization. The contractor retains its independence from State and local governments, including the contractor's control over the definition, development, practice, and expression of its charitable or religious beliefs. Except as provided by federal law, TDHS shall not interpret this contract to require a charitable or religious organization to alter its form of internal governance or remove religious art, icons, scripture, or other symbols. Furthermore, if a religious or charitable organization segregates the government funds provided under the contract, then only the financial assistance provided by these funds shall be subject to audit. However, neither TDHS' selection of a charitable or faith-based contractor of social services nor the expenditure of funds under this contract is an endorsement of the contractor's charitable or religious character, practices, or expression. The purpose of this contract is the provision of social services; no State expenditures have as their objective the funding of sectarian worship, instruction, or proselytization.

Texas Department of Human Services Contract Language

[<http://www.dhs.state.tx.us/communitypartnerships/charitable/language/html>]

evenhanded basis. In addition to inviting the participation of minority groups, community-based organizations, and nonprofits, also list as eligible to take part faith-based organizations, religious groups, and programs run by churches, synagogues, mosques, and other houses of worship.

In addition, officials should make sure that procurement manuals and other procurement guidance clearly shows that faith-based organizations are eligible to participate in contract, grant, and voucher programs. Procurement regulations and statutes may need to be modified. Staff who respond via telephone, mail, or e-mail, or otherwise handle public inquiries need to be informed that faith-based organizations should be encouraged to participate.

A Compliance Checklist

A box in one of the left columns indicates that a feature or requirement applies to a particular federal source of funding (PRWORA = TANF and WtW funds; CSBG = CSBG funds). The box can be used for checking off items after an assessment has been completed and needed changes have been made. In the right-hand column, “DO” items are actions required by Charitable Choice, and “BEST” items suggest ways to fulfill the spirit and not only the letter of the law.

A Compliance Checklist



PRWORA	CSBG	FEATURE	ACTION TO REFORM PROCUREMENT
<i>Eligibility of Faith-based Providers</i>			
<input type="checkbox"/>	<input type="checkbox"/>	No Discrimination	DO > eliminate language and regulations that exclude religious, faith-based, “sectarian,” “pervasively sectarian,” or house of worship-related organizations or that require a higher level of justification to award them funding DO > refrain from creating programs only for houses of worship or other faith-based organizations BEST > add the category “faith-based” to listings of eligible providers
<input type="checkbox"/>	<input type="checkbox"/>	Follow Federal Rules When Funds Are Commingled	DO > when state or local funds are commingled with federal funds, follow Charitable Choice in expending all of the funds DO > ensure that all funds expended by Community Action Agencies follow Charitable Choice, notwithstanding any state or local restrictions on funding faith-based organizations
<input type="checkbox"/>		State and Federal Funds May Be Kept Separate	DO > if a state or local government’s rules prohibit funding faith-based organizations, then keep the federal funds separate and comply with Charitable Choice when procuring services with the federal funds
<input type="checkbox"/>	<input type="checkbox"/>	501(c)(3) Organization Need Not Be Secular	DO > if houses of worship are required to establish a separate nonprofit to receive government funds, eliminate every requirement or implication that the separate organization must be secular, non-sectarian, or not religious BEST > to overcome the common presumption that the purpose of requiring a separate organization is secularization, include a specific statement that the organization may have a religious character
<i>Respecting the Religious Character of Faith-based Providers</i>			
<input type="checkbox"/>	<input type="checkbox"/>	Maintaining a Religious Environment	DO > abolish any requirement to remove religious icons, symbols, art, clothing, or other items, to get rid of a religious-sounding name, or to eliminate religious references in mission statements DO > eliminate any language or regulations stating or implying that a program must be totally secular or that it may use no religious influence or language BEST > affirm in procurement documents and public notices that faith-based organizations may manifest their religious character in speech and programs, subject to the requirements to demonstrate respect for all clients, to fulfill the secular purpose of the program, and to comply with specific limitations on inherently religious activities
<input type="checkbox"/>	<input type="checkbox"/>	The Right of Self-Governance	DO > eliminate any requirement that a governing board must reflect the composition of the community or include representatives of the population to be served (see CSBG exception below) DO > eliminate any requirement that clergy are ineligible to direct or manage the provider or that the provider may not be controlled by a house of worship BEST > specifically affirm in procurement documents and public notices that faith-based organizations retain the right of self-governance
	<input type="checkbox"/>	CAA Governing Board	DO > maintain the requirement of a tri-partite governing board for a faith-based organization that becomes a Community Action Agency
<input type="checkbox"/>	<input type="checkbox"/>	Employment Nondiscrimination Exemption	DO > specify in contract and grant documents that faith-based providers are exempt from bans on religious discrimination in employment DO > ensure that civil rights compliance certification documents contain an explicit exemption from bans on religious discrimination in employment BEST > affirm in procurement notices that faith-based providers have the right to select only employees who adhere to the organization’s religious mission
<input type="checkbox"/>		Option of A Separate Account	DO > specifically affirm the right of faith-based providers to establish a separate account for government funds DO > if the faith-based organization maintains a separate account, limit fiscal audits to that account
	<input type="checkbox"/>	Required Separate Account	DO > require that faith-based providers maintain a separate account to receive and disburse government funds DO > limit fiscal audits of faith-based providers to the separate account

		FEATURE	ACTION TO REFORM PROCUREMENT
<i>Obligations of Faith-based Providers</i>			
<input type="checkbox"/>		Serve Clients Without Religious Discrimination	DO > add language to procurement documents and notices, if not already present, stating that all providers must serve clients without regard to religion DO > check compliance with this obligation in contract monitoring DO > inform clients about the religious or secular character of each provider, the clients' right to be served without religious discrimination, and what the clients should do if they encounter discrimination when seeking services BEST > require faith-based organizations to inform prospective clients in writing about the religious character of the organization and programs and of the clients' right to be served without religious discrimination
<input type="checkbox"/>		No Obligatory Religious Practices	DO > add language to procurement documents and notices, if not already present, stating that clients have the right not to actively take part in any inherently religious activities (such as prayer or doctrinal instruction) DO > check compliance with this obligation in contract monitoring DO > inform clients of their right not to take active part in inherently religious activities and what to do if they are compelled to participate BEST > require faith-based organizations to inform prospective clients in writing about the religious character of the organization and programs and of their right not to take active part in inherently religious activities BEST > if a client of a faith-based organization objects to its programs, assist him or her in selecting a more compatible provider BEST > encourage faith-based organizations that offer optional religious activities also to offer optional high-quality non-religious activities
<input type="checkbox"/>	<input type="checkbox"/>	No Direct Funding Used for Inherently Religious Activities	DO > add language to procurement documents and notices, if not already present, specifying that no government contract or grant funds may be expended for "sectarian worship, instruction, or proselytization" DO > check compliance with this obligation in fiscal auditing BEST > officials should discuss with faith-based providers what activities are considered inherently religious BEST > affirm in procurement documents and notices that this restriction does not rule out private funding of inherently religious activities (but those activities have to be optional for clients)
<input type="checkbox"/>		Voucher Funding Not Restricted	DO > when the government money is disbursed via vouchers that clients redeem for services from providers, ensure that the restrictive language about not using government funds for inherently religious activities is not included BEST > when a program is voucherized, affirm in public notices and contract documents that the restriction on how funds may be used does not apply, but note that all government funds are to be used to produce specified program outcomes and that any inherently religious activities must be optional for clients
<input type="checkbox"/>	<input type="checkbox"/>	Fiscal Accountability	DO > state in procurement notices and contract documents that all providers are subject to the same fiscal accountability standards BEST > offer technical assistance to novice faith-based and secular providers about accountability requirements and how to meet them
<input type="checkbox"/>	<input type="checkbox"/>	Outcome Accountability	DO > state in procurement notices and contract documents that all providers are subject to the same standards of accountability for achieving desired outcomes
<i>Additional Protections for Clients</i>			
<input type="checkbox"/>		Availability of a Secular Alternative	DO > prepare in advance how to offer a timely, accessible, and equivalent alternative service to any client of a faith-based program who objects to a religious provider DO > refrain from requiring faith-based providers to supply an alternative DO > inform clients of the religious or secular character of all providers, the clients' right to an alternative if they object to a faith-based provider, and how clients may exercise their right to an alternative BEST > require faith-based organizations to inform prospective clients in writing about the religious character of the organization and programs, the clients' right to an alternative if they have a religious objection to the provider, and how clients may exercise their right to an alternative BEST > provide choice to all clients by turning contracts into voucherized services, breaking a monopoly service contract into contracts with multiple providers, or requiring large contractors to subcontract with faith-based and other community organizations
	<input type="checkbox"/>	Protect CAA Clients	BEST > provide choice to all clients of Community Action Agencies by turning contracts into voucherized services, breaking a monopoly service contract into contracts with multiple providers, or requiring large contractors to subcontract with faith-based and other community organizations BEST > the government informs clients about the religious or secular character of every provider and is prepared to provide an alternative if a client objects to a faith-based provider
<i>Subcontracting</i>			
<input type="checkbox"/>	<input type="checkbox"/>	Subcontracting	DO > if contractors are allowed or required to subcontract, emphasize that Charitable Choice governs the selection and treatment of subcontractors and the subcontractors' treatment of their clients

Welcoming Faith-based Organizations

Notice to Charitable and Religious Organizations

A major feature of the federal welfare-reform legislation signed by President Clinton on August 22, 1996 is that it encourages states to cooperate with charitable and religious charities in serving needy families.

The federal welfare-reform legislation passed welfare authority to the states within the framework of several basic guidelines. The "charitable choice" provision in section 104 is a key guideline. The charitable choice provision has three goals:

1. It seeks to encourage states to expand the involvement of charitable and religious organizations in the public antipoverty effort.
2. Through a range of measures, it protects the religious integrity and character of charitable and religious organizations that are willing to accept government funds to provide services to the needy.
3. It safeguards the religious freedom of clients, both those who are willing to receive services from religious organizations and those who object to receiving services from religious organizations.

The Texas Department of Human Services is committed to providing opportunities for charitable and religious organizations to participate in all of its programs, not just the programs covered by the federal welfare-reform legislation. Accordingly, the Department encourages charitable and religious organizations, as well as other organizations, to seek contracts and other relationships with the Department. In return, the Department promises to honor the goals of charitable choice.

Texas Department of Human Services language in cover letters sent to potential providers

[<http://www.dhs.state.tx.us/communitypartnerships/charitable/language/html>]

A Level Playing Field. Faith-based organizations under Charitable Choice may participate in procurement "on the same basis as any other nongovernmental provider." That means, first of all, that organizations with a clear religious character may not be excluded or discouraged from competing for funding. But a level playing field also means that a program may not be created to include only houses of worship or other faith-based organizations. However, although officials should not create a special program only for faith-based

organizations, they should consider a special outreach to faith communities in order to overcome mistrust and lack of prior contact.

The Wisconsin Department of Workforce Development defines a “faith-based provider” as

an organization that is religious in nature, charitable in nature, or that follows a mission that promotes moral and character values that are consistent with the philosophy of Wisconsin Works.

Wisconsin Department of Workforce Development, RFP to Administer W-2 and Related Programs, May 1999, DWD-1808-GS

Officials can legitimately seek the involvement of organizations that emphasize virtues and the moral dimension of life. But religious groups cannot be included solely because they are religious, and secular groups cannot be excluded solely because they are secular. Instead, officials may craft programs and procurement language that emphasize the importance of a holistic approach and the need for services that help clients wrestle with the moral consequences of their choices.

Religious Considerations in Hiring. Under Charitable Choice, faith-based organizations retain their pre-existing right to consider religion in their hiring and firing decisions, although they may not discriminate on other grounds (e.g., race, gender, disability, age) in their employment policies and they must serve all clients without regard to religion. This Charitable Choice employment exception means that the blanket prohibition against all forms of discrimination that is typically included in contracts and RFPs, as well as in documents for certifying compliance with civil rights requirements, is too broad. Officials have to acknowledge the Charitable Choice exception.

Language Showing Hiring Exemption for Faith-based Providers

. . . a religious organization that contracts with the Department does not by contracting with the Department lose the exemption provided under Section 702 of the Civil Rights Act (42 U.S.C.2000e-1(a)) regarding employment practices.

Texas Department of Human Services Contract Language
[<http://www.dhs.state.tx.us/communitypartnerships/charitable/language/html>]

When the funding source is TANF, WtW, or CSBG money, faith-based organizations cannot be required to certify that they will not use religious criteria in their employment decisions. All language that directly or inadvertently forbids faith-based organizations from making decisions on the basis of religion in hiring, promotion, and firing must be eliminated from contract, grant, voucher, and civil-rights compliance documents. Better yet, language should be included acknowledging the employment rights of faith-based organizations.

Further, since Charitable Choice protects the religious character and independence of faith-based providers, state and local nondiscrimination laws or regulations that would encroach upon a provider's religious autonomy must give way to federal law.

Protecting Clients. Charitable Choice does not permit officials to try to shield clients from unwanted religious language or influence by excluding faith-based organizations as providers or requiring participating providers to eliminate religion from their programs. (This negative strategy, of course, did not honor the convictions of the many clients for whom faith is an essential dimension of life!) Rather, the PRWORA version of Charitable Choice specifies several distinct ways to protect clients when they are served by faith-based organizations.

In order to comply with the new strategy by incorporating those specified means of protection, officials may have to add language or

Provider's Obligation to Notify Clients of Their Religious-Liberty Rights

A charitable or faith-based provider of social services under this contract shall reasonably apprise all assisted individuals of the following: "Neither TDHS' selection of a charitable or faith-based provider of social services nor the expenditure of funds under this contract is an endorsement of the provider's charitable or religious character, practices, or expression. No provider of social services may discriminate against you on the basis of religion, a religious belief, or your refusal to actively participate in a religious practice. If you object to a particular provider because of its religious character, you may request assignment to a different provider. If you believe that your rights have been violated, please discuss the complaint with your provider or notify (name and telephone number of contact within TDHS)."

Texas Department of Human Services Contract Language
[<http://www.dhs.state.tx.us/communitypartnerships/charitable/language/html>]

options to their procurement documents and programs. RFPs and other documents, for example, should clearly state that a faith-based organization must serve all clients without regard to their faith commitments or lack thereof and that clients have the right not to actively take part in any inherently religious elements that might be offered in conjunction with a government-funded program of service.

Although the PRWORA and CSBG versions of Charitable Choice do not specify that clients must be informed of their religious-liberty rights, officials would be prudent to ensure that such notice is given. Officials should devise a way to clearly communicate the rights to clients and potential clients so that they know what they should do before any possible problems are encountered. Caseworkers should inform clients of their rights. In addition, officials may want to require faith-based providers to notify clients of their rights and options. Having clear expectations is important equally for clients and for providers.

Officials need to work out how they will monitor the way faith-based organizations adhere to their commitments to respect their clients' rights.

Ensuring a Secular Alternative. Officials must plan carefully how to fulfill the requirement to provide an alternative service to a client who objects to receiving assistance from a faith-based provider. Except in the case of contractors that subcontract, this is an obligation of the government, not faith-based providers, so officials cannot fulfill it by requiring religious organizations to maintain lists of secular alternatives or to reconfigure one part of their program to be wholly secular for clients who object to a religious environment. Officials

The Obligation to Provide an Alternative Service

Wisconsin W-2 contractors (welfare administrative agencies) agree to this contract requirement:

. . . if the W-2 agency contracts with a faith-based organization to provide case management services or assistance to W-2 and related program participants, it must make available within a reasonable time an alternative provider of the same services, worth the same value, to any participant who objects to the religious character of the organization or institution from which the participant would receive or is receiving case management services or assistance.

Wisconsin Department of Workforce Development, RFP to Administer W-2 and Related Programs, May 1999, DWD-1808-GS

should not ignore the requirement until a crisis arises, leaving a client faced with the choice of having her religious convictions violated or foregoing a service to which she is entitled. Because officials, before and outside of Charitable Choice, typically contract with secular organizations or religiously affiliated organizations that provide secular services, they should not find it difficult to locate appropriate alternative services for clients who may object to a religious provider. Nevertheless, the need for such access should be anticipated.

Encouraging Subcontracting

Optional Performance Standards Criteria for Wisconsin W-2 contractors:

Faith-based Contracts: There is a valid contract between the W-2 agency and a faith-based provider . . . to provide direct services, for example child care, transportation or basic skills training, to W-2 participants in return for funding from the W-2 contract. One or more contract(s) must be signed and in effect for seven of the eight quarters of the W-2 contract term. The contract(s) does not need to be with the same provider(s) for the entire period.

Wisconsin Department of Workforce Development, RFP to Administer W-2 and Related Programs, May 1999, DWD-1808-GS

In urban areas all that may be needed in order to ensure that there is an alternative is to split a large contract into several to ensure diversity. Or transportation could be arranged to a different provider in an adjacent community. Vouchers, which institutionalize alternatives, are another way to be sure that clients have a choice. A further possibility is to require contractors to subcontract with several community-based organizations to provide the services that have a marked moral dimension.

In smaller communities and in rural areas, to be prepared with an alternative may require more planning and greater ingenuity. If a government agency has historically provided the (secular) service itself in an area, it might retain a residual service-delivery capacity when it decides to contract out most of the assistance. Transportation to another town with other providers could be planned. Officials might specifically contract with some institution in the area (for example, a provider of other social services, a community college, or a school district) to offer an alternative.

Contractors that subcontract assume, when acting in that capacity, the obligation to ensure a secular alternative. So they need to plan ahead by ensuring that they subcontract with diverse providers, including at least one that provides secular services, or by making arrangements with another contractor that has subcontracted with a secular provider. Contractors need to maintain referral lists that note the secular or religious character of the various subcontractors.

Will secular alternatives be needed? Who knows? There is good reason to believe that many clients prefer services that are open to the faith dimension instead of purely secular programs. Some clients even prefer services embodying a religious perspective that is not their own over services that ignore religious convictions entirely.¹⁴ Whatever the case, under Charitable Choice it is not up to officials to decide whether or not they want to be prepared. They have to be ready to supply the alternative service if it is needed. And they have to work out a way of informing clients of their right to an alternative and of monitoring to be sure that clients really do know they have this right and can effectively exercise it.

Protecting Clients Served by Community Action Agencies.

Charitable Choice as adopted for Community Service Block Grants does not specify how the religious liberty rights of clients are to be protected. But officials may and should safeguard those rights by providing clients with choice and information. If a Community Action Agency procures services, it should contract with a variety of providers, including at least one that offers a secular program, or else maintain a capability to provide a secular service itself. Community Action Agencies should inform people needing help about the religious or secular character of the various providers and of the clients' right to select among the providers. Providing choices and information is important for clients, for effective social services, and also for faith-based providers, who otherwise will find themselves pressed to downplay their religious character, despite the guarantees included in Charitable Choice.

¹⁴ Jill Witmer Sinha, *Cookman United Methodist Church and Transitional Journey: A Case Study in Charitable Choice* (Center for Public Justice, 2000).

Chapter *Four* _____

Making Charitable *Choice* Happen

Changing the patterns of procurement and the kinds of services available to families and children in need to include additional faith-based providers requires more than the passage of federal legislation. It requires more than rewriting procurement statutes and regulations that excluded faith-based providers or that pressured them to become secular. Real change is likely to require overcoming well-established practices and certain assumptions about what the Constitution entails. And thanks to the high wall that was erected against the many religious organizations that have been presumed to be too “sectarian” to serve in the public interest, officials may now need to undertake affirmative steps just to achieve a level playing field for procurement in which choices can be made by the criterion of effectiveness, not secularism.

This chapter briefly suggests ways to achieve real change in procurement and service delivery by ensuring compliance in practice with Charitable Choice, bridging the gap between government and faith communities through outreach, and facilitating collaboration by redesigning the procurement process.

A. Political Leadership

Because complying with Charitable Choice requires significant change in both procurement policy and practice, compliance is likely to require deliberate action by legislative and executive leaders. Procurement and social-services officials may not be able to make necessary changes without legislative or gubernatorial authorization. Even if they can make the changes, strong political leadership may be needed to overcome inertia, confusion, and opposition.

Task Forces. A legislative or executive task force on collaboration with faith-based and community organizations can be a powerful catalyst for change. A taskforce can hold hearings to uncover barriers to collaboration, including the practical and policy concerns of some faith groups; sponsor a thorough compliance review of procurement policies and practices; and propose policy and program changes to eliminate other obstacles to expanded collaboration, such as overly stringent licensing requirements. In addition to yielding invaluable

information on problems and solutions, a task force elevates Charitable Choice and new possibilities for collaboration in the minds of the public, government procurement and program officials, and faith-based organizations.

Examples of Task Forces

- **Texas:** Governor's Advisory Task Force on Faith-Based Community Service Groups, 1996 (access its report, *Faith in Action . . . A New Vision for Church-State Cooperation in Texas*, through the Texas Department of Human Services website: www.dhs.state.tx.us).
- **Virginia:** Lt. Governor John H. Hager's Special Task Force to Study Ways Faith-Based Community Service Groups May Provide Assistance to Meet Social Needs (1999-).
- **Wisconsin:** Joint Legislative Council's Special Committee on Faith-Based Approaches to Crime Prevention and Justice, chaired by House Speaker Scott R. Jensen (1998-1999) (access 1999 session report no. 10 at www.legis.state.wi.us/lc/jlc_reports.htm).

Executive Orders. By means of an executive order a governor can direct the government departments that expend federal funds covered by Charitable Choice to review their procurement policies and practices and bring them into compliance. Through a well-publicized executive order a governor can make a high-profile commitment to changing how the state relates to faith-based organizations and emphasize the administration's determination to transform a formal commitment to Charitable Choice into changed procurement practices.

State Adoption of Charitable Choice. Charitable Choice is the law for expending certain federal funds and does not require enactment by states (although some jurisdictions may need changes in statutes to make their procurement compliant with the new requirements). Nonetheless, a number of states have adopted the federal language into their own statutes. State enactment ensures that there is no conflict between federal and state statutes. It also emphasizes the state's explicit knowledge and acceptance of the new procurement rule. Furthermore, the states that have enacted Charitable Choice have extended its scope beyond the federal funds to all funds expended by the affected departments.

Executive Orders

- Texas Governor George W. Bush's executive order on implementing Charitable Choice directed

. . . all pertinent executive branch agencies to (i) take all necessary steps to implement the 'charitable choice' provision of the federal welfare law; and (ii) take affirmative steps prescribed by the Act to protect the religious integrity and functional autonomy of participating faith-based providers and the religious freedom of their beneficiaries.

Agencies were given six months to file a written report with the governor's office on implementation progress. Executive Order GWB 96-10 (December 1996).

- Arkansas Governor Mike Huckabee issued a similar executive order in October, 2000, declaring that

. . . the State of Arkansas enjoys a rich diversity of private and faith-based charities that render effective and focused aid to people in need; . . . these groups achieve impressive results by evoking personal responsibility, transforming lives, and injecting moral and spiritual resources that are beyond government's know-how; . . . [and] Arkansans recognize that government need not be the first nor the only provider of assistance to those in need . . .

and requiring executive agencies to fully implement Charitable Choice. State of Arkansas Executive Department Proclamation EO-00-09 (October 25, 2000).

Devolution. States that vest social-service control at the county or regional level may need to take special action to be sure that Charitable Choice becomes the new rule for local procurement. To overcome confusion at the county level, the California legislature directed the state's Department of Social Services to adopt regulations to implement Charitable Choice (contact the Office of Regulations Development, CDSS). In Arkansas, state officials revised the guidebook for local Transitional Employment Assistance Coalitions to emphasize the Charitable Choice requirements (TEA Coalition Handbook, Nov. 2000).

Documenting Progress. To ensure that procurement practice does change, officials may wish to require regular reporting of contracts and grants awarded due to Charitable Choice. However, a reporting system needs to be carefully designed. Only contracts and grants using funds covered by Charitable Choice and whose terms conform

with the new requirements should be counted as evidence of compliance. And, rather than being arbitrarily labeled on the basis of how religious their name sounds, organizations should be given the opportunity to identify themselves as faith-based or not.

Of course, officials may wish also to track collaborations with religious groups operating secular programs or with secular grass roots groups. And a good system should permit reporting of process innovations such as cutting red tape or improving communication about contracting opportunities. However, a poorly designed reporting system that mixes noncompliant with compliant contracts can actually impede progress by falsely suggesting that procurement practice has been changed when in fact distinctively religious providers remain excluded from participation.

State Charitable Choice Laws

- **Wisconsin:** applied Charitable Choice to the Department of Workforce Development and the Department of Health and Family Services (1997-98 Wisconsin Statutes and Annotations, ch. 49.114 and ch. 46.027).
- **Arizona:** applied Charitable Choice to all state spending for welfare, child welfare, and public health (Arizona Revised Statutes 41-3751).
- **Texas:** applied Charitable Choice to all spending and also nonfinancial collaborations by local workforce development boards [Texas Government Code § 2308.303(a)(9)].
- **Oklahoma:** proposed legislation to apply Charitable Choice to all procurement by state agencies [47th Legislature (2000), S. 1179 (Sen. Scott Pruitt)].

B. Outreach

The restrictive procurement policies of the past have left a legacy of suspicion and distance between government and many in the faith communities. Because of the secularizing requirements, many faith-based organizations decided there were no real procurement opportunities for them and little point in paying attention to calls for collaboration or to public procurement notices. To overcome this legacy requires positive action by government officials.

Send a Signal. A clear and high-profile commitment to Charitable Choice is key. Demonstrably bringing restrictive procurement policies and practices into compliance with Charitable Choice not only creates the necessary level playing field but also sends a strong signal that the old era has been replaced by a new one.

Ways to send a signal:

- in addition to eliminating language in RFPs and contracts that excluded faith-based providers, add language that specifically welcomes them;
- announce a department's or the state's decision to make procurement comply with Charitable Choice at a well-publicized event organized for the faith communities;

Sending a Clear Signal About Charitable Choice

On Oct. 20, 2000, the Colorado Department of Human Services hosted a state-wide conference, "Faith Makes A Difference: State Government Partnering with Faith Communities." Charitable Choice was a key plenary and workshop topic. Gov. Bill Owens announced at the start of the conference that, the day before, he had signed an executive order requiring compliance with Charitable Choice (Executive Order on Charitable Choice D 015 00). A copy of the executive order was included in each conference folder.

- distribute information about Charitable Choice—e.g., the Texas Department of Human Services widely distributes a brochure on Charitable Choice and collaboration, in both English and Spanish; the head of the Shasta County (California) Department of Human Services has distributed to both officials and faith leaders copies of *A Guide to Charitable Choice* with his business card reproduced on the cover;
- the Internet homepages of appropriate departments should be made visually inviting to faith-based groups, with prominent links to Charitable Choice and other pertinent information.

Charitable Choice on State Websites

- The Indiana Department of Human Services homepage features a prominent link to FaithWorks Indiana, a special outreach to faith-based providers: www.state.in.us/fssa.
- FaithWorks Indiana has its own website, with a prominent link to Charitable Choice information: www.state.in.us/fssa/faithworks.
- The Texas Workforce Commission website features a "Faith-based & Community-based Services" link to information about Charitable Choice and to an innovative "Charitable Choice, Faith-Based, & Community-Based Organizations Bulletin Board," which provides a way for faith-based and community groups to announce their services and to initiate a discussion with government about collaboration possibilities: www.twc.state.tx.us.

Making Connections. Specific outreach efforts are needed to establish working relations beyond the limited set of religiously affiliated organizations that have long collaborated with government. This task is complicated by the reality that there are multiple faith communities, each with its own network of communications, experience with government, and attitudes about collaborating with government. Given their distance or alienation from government, some of these communities can only be reached by cultivating relations with their trusted leaders. Breakfast meetings with strategic leaders can be much more successful than a mass-mailed announcement of a welfare department's desire to collaborate.

How to identify the networks and leaders? Start with organizations already involved with government and ask about others with whom they cooperate—check with houses of worship that provide child care, faith leaders who work with the police and courts to intervene with at-risk juveniles, congregations that provide services to refugees or the homeless. Use the phone book and contacts to identify denominational networks, regional and urban clergy groups, and associations of faith-based service providers, such as local affiliates of the Interfaith Community Ministries Network. In California, North Carolina, and some other states, the state Council of Churches works to link officials and interested congregations. Ask the staff of government departments what faith connections they have and how they can help facilitate bridge-building. Organizations like the Polis Center in Indianapolis and the Center for Religion and Civic Culture at USC in Los Angeles are prime sources of information about the local faith communities. Officials have contracted with faith leaders or community organizations to help build bridges—e.g., Ohio contracted with the National Center for Neighborhood Enterprise to organize regional conferences, train county officials, and to reach out to faith networks; some jurisdictions have engaged Bill Raymond of FaithWorks Consulting Service to plan how to bring together government and networks of congregations.

In all cases, officials should be mindful that no one leader or association will be equally in contact with all faith communities. Often nonprofit networks such as United Way have only limited connections in many faith communities. Interfaith associations and Councils of Churches often do not include theologically conservative and independent-minded houses of worship and providers.

Technical Assistance. Many faith-based organizations new to contracting need assistance with the procurement process and to build managerial and delivery capacity. Make sure that existing technical assistance programs are easily accessible and hospitable to faith-based and novice groups. Publicize grant-writing and how-to workshops

organized by other groups, such as community colleges and nonprofit associations. Make conferences and workshops most appealing and productive by highlighting Charitable Choice and by offering specific help, such as the opportunity to consult with procurement officials or to obtain how-to information from current collaborations.

Faith Liaisons. Faith-community liaisons provide a clear and inviting point of entry for faith-based and other groups not familiar with procurement. A liaison official or organization can provide technical assistance and legal information to providers; act as an ombudsman, helping to clear red tape; and keep the government aware of remaining barriers to fruitful collaboration. Liaison officials and organizations should be available to serve all groups needing assistance but they should have a special mandate and skills to assist faith-based organizations to overcome the legacy of past restrictive government policy.

Examples of Faith-Community Liaisons

- **Oklahoma:** Brad Yarborough directs the Office of the Faith-based Liaison, under the Secretary of Health and Human Services.
- **Pennsylvania:** As special assistant to Deputy Secretary Sherry Heller, Phyllis Bennett has functioned as the Department of Public Welfare's liaison to faith communities.
- **Virginia:** Jane Brown is Director of Community Programs and Resources for the Department of Social Services and is now also designated the faith liaison for the state.
- **North Carolina:** Many counties either contract for or have designated staff as Faith Community Coordinators.
- **Charlotte and Mecklenburg County, North Carolina:** Rev. Ralph Williamson serves as Religious Affairs Special Director to the Mecklenburg County Department of Social Services.
- **Maryland:** The Department of Human Resources and faith leaders have formed a Partnership Council.
- **Texas:** Each regional Department of Human Services office and each local workforce development board has a designated faith liaison, and Elizabeth Seale on the Department of Human Services Board and Jim Underwood in the Governor's Policy Office serve as faith liaisons.
- **Indianapolis:** Under former mayor Stephen Goldsmith, the mayor's office operated the Front Porch Alliance to promote collaboration, cut red tape, and help faith-based and community groups find funding.
- **Indiana:** FaithWorks Indiana provides technical assistance, help in applying for government funds, information about best practices, and other support to faith-based and community groups.
- **For-Profit Contractors:** Maximus in the Phoenix area and Lockheed Martin IMS in San Diego employ faith liaisons.

C. Redesign Procurement

States can facilitate the involvement of faith-based and community organizations in procurement by making the process more hospitable to novice and non-bureaucratic providers. Technical assistance to help new providers with information on the process, grant-writing, and compliance with reporting and other requirements is important. Steps to open-up procurement by distributing information about contract opportunities more widely and actively recruiting organizations for mailing lists and vendor lists are essential. There are also other possibilities.

Simplify RFPs. Rigorously eliminate unessential technical details. Translate jargon and legalese into plain English. Shorten RFPs so that they are easier to complete and appear less intimidating. Consider converting RFPs to a fill-in-the-blanks format (but note that such a format may make the document longer and thus appear more intimidating).

Alternatives to RFPs. As a flexible alternative to contracting, set aside some funds for “Innovation Grants” (Texas), relatively small competitive grants awarded to whichever organization proposes the best way to respond to specified needs.

Rework Performance Contracts. Performance contracts help to ensure effective services but can inadvertently exclude otherwise qualified providers who cannot wait for weeks or months for payment for services rendered. Enlarge the pool of providers by awarding refundable advances on performance payments, increasing the proportion of funds paid for achieving initial milestones, or by shortening payment cycles in general.

Intermediaries and Other Alternatives. Officials can facilitate participation by small-scale faith-based and community programs by encouraging them to join together as a nonprofit consortium that can administer contracts. Officials can contract with an established religiously affiliated or secular provider that agrees to be the fiscal agent for smaller groups. Officials can also split large contracts into smaller ones and encourage or require large contractors to subcontract with community and faith-based groups.

Vouchers. Vouchers are a more flexible alternative to contracting. Vouchers give clients choices and the chance to exercise responsibility. Clients help to enforce quality by avoiding ineffective providers, thus allowing government to minimize regulatory red tape. Because voucher funding is indirect, faith-based organizations can be more flexible in how religion is integrated into their programs. When services are delivered via voucher, clients who object to faith-based organizations are immediately free to select another provider—and clients who seek a holistic program that addresses their spirit as well as their mind also have a chance to choose their preferred alternative.

Appendix *One*

Ways to Promote Collaboration

[To be published as “Code of Conduct for Public Officials” in Ryan Streeter, ed., *Religion and the Public Square in the 21st Century: Proceedings from the Conference, “The Future of Government Partnerships with the Faith Community”* (Indianapolis: Hudson Institute, 2001). Used by permission.]

1. When reaching out to the faith community, officials should make a specific attempt to reach all of its parts, keeping in mind that different denominations and faith groups have different avenues of access and lines of communication.
2. Involve representatives from the faith community at the earliest stages of planning—plan with the faith community and not for the faith community.
3. Reform procurement policies and practices to embody the Charitable Choice guidelines in letter and spirit. Develop explicit guidelines concerning what faith-based organizations may and may not do in the area of religious practices and speech. Designate a staff member to monitor compliance with the guidelines by both government and faith-based organizations.
4. Reengineer procurement procedures to be friendlier to faith-based and community-based organizations:
 - a) use smaller grant/contract amounts
 - b) take steps to ensure that contracts don't go only to the usual (traditional, largest) vendors
 - c) provide technical assistance to newcomers (government can establish a nonprofit incubator, disseminate information about existing sources of TA, provide small grants to enable groups to improve their ability to compete for funds, etc.)
 - d) in addition to removing from procurement documents language that bars participation by faith-based groups, include language that specifically welcomes their participation
 - e) make the RFP process simpler
 - f) when contracts/grants are made smaller, lower qualification and operational requirements proportionately
 - g) develop alternative criteria for assessing the competence of potential providers who have been successfully serving but do not have a conventional track record

h) seek private (or public/private) funding support for novice organizations to give them a year to develop adequate systems and procedures for collaboration with government as well as a documented track record of service and effectiveness

i) develop and disseminate a “how to get started” guide for nonprofits (how to incorporate, accounting requirements, RFP process, building capacity, etc.)

5. Designate faith-community liaisons to reach out to the faith communities, to be a point of contact within government, to monitor how hospitable government is to collaboration, and to troubleshoot/cut red tape:
 - a) an office of faith-based action attached to the governor’s office
 - b) high officials in relevant departments (welfare, workforce, social services)
 - c) officials in regional and/or local offices (this may be a newly designated task of an existing staffer)
 - d) remember that such persons/offices need to be “bilingual”: know the language and mores of both government and the (diverse parts of the) faith community and be trusted by both sectors.

6. Evaluate policies and practices to ensure, at a minimum, that they do not harm existing faith-based organizations and collaborative efforts. Better, intentionally develop or redesign policies and practices to create in the jurisdiction a positive environment for the flourishing of faith-based organizations and collaborations. For example, encourage non-financial collaborations as well as financial collaborations; enact tax-credit and tax-deduction policies that provide greater resources to faith-based organizations; eliminate unnecessary credential, licensing, and accreditation requirements for organizations and service providers; adopt liability protections for good-willed service providers; encourage volunteerism, etc. Don’t start a new government program to provide a service if a faith-based or other community-based provider already provides the service adequately or can be assisted to do so.

7. For fruitful financial collaborations with the various kinds of faith-based (and community-based) organizations, government should use a variety of collaboration measures in addition to conventional contracting, such as vouchers, contracts with intermediary organizations (which in turn engage several faith-based organizations), or innovation grants (let the organizations pitch their own idea of what the critical problems are and how they can best be solved), and subcontracting.

8. To maximize freedom for, and the creativity of, faith-based organizations and also more effective assistance for the needy, evaluations of service organizations should be based on performance rather than credentials or process measures.
9. To ensure continuity and coordination of services when delivery is being devolved to the non-governmental and private sectors, government should take care to create or find mechanisms that encourage sharing of information about needs and available services. To ensure a balance between needs and available services, for instance, a voucherized delivery system may need to be paired with a management structure that tracks need trends and recruits new providers as necessary. More generally, a decentralized service delivery system needs some mechanism enabling information to be shared and services to be coordinated between various government programs, faith-based and community-based organizations (whether they collaborate with government or not), the business sector, social clubs, and the like.
10. Remember that changing government practice involving relations with faith-based organizations requires much more than changing statutes. Regulations require continual attention. A concerted effort needs to be made to change the bureaucratic culture from indifference or hostility to nontraditional partners to hospitality.
11. To emphasize the importance of, and to measure progress toward, increasingly positive relations between government and the faith-based providers, departments should be required to report periodically on the number and nature of their collaborations and the innovations they are making to foster better relations.
12. Executive leadership is vital to changing how government relates to the faith communities. Governors and departmental leaders can emphasize the importance of hospitable relations by taking high-profile actions such as appointing liaisons, initiating a taskforce on barriers facing faith-based organizations and ways to overcome them, issuing executive orders on expected new practices, and getting the legislature to adopt Charitable Choice into the state's own statutes. Executives also play a vital role by continually challenging those under them to demonstrably make progress toward improved relations.
13. Government should always remember that faith-based organizations, even if they are contractually delivering services, are never just service vendors. Fruitful relations are respectful ones in which government accepts the need of faith-based providers to advocate on behalf of clients as well as provide services to them, and to critique as well as collaborate with government.

14. Systematically work to clear away unnecessary and overly bureaucratic regulation of nongovernmental organizations and micromanaging procurement requirements. Such reforms will also create a more hospitable environment for faith-based organizations. At the same time, be mindful of any particular issues of special concern to the faith communities and ensure that those special problems also are resolved.
15. Because government is interested in preventing as well as responding to social problems, it should seek to encourage the moral mission (building character and virtues) of faith-based organizations and other institutions of civil society. For this reason, it should be as protective as possible of the ability of faith-based organizations to have a moralizing and transformative influence on those they serve and take care not to reduce such organizations to simple vendors of services that touch only body and brain, not soul and spirit.
16. While taking special and affirmative steps to make government hospitable to faith-based organizations, officials should take care not to adopt a quota mentality in which the organizations are inadvertently limited to only a certain percentage of contracts or only certain types of services (e.g., mentoring but not job training).
17. Given the distance that has developed between much of government and much of the faith community, it is important that government not only change its policies and practices to become hospitable to faith-based organizations but to actively market its new hospitality. Officials should find ways to send the message that a new day has dawned, that old practices are being changed, and that closed doors are now open. Officials can use examples of both bad relations and good collaborations to send a message about the need for and commitment to change.
18. To progress toward optimally fruitful collaborations, government officials should work both to lower as far as possible the requirements faith-based organizations must meet to be able to work with government (e.g., eliminating unnecessary certification requirements) and to raise the ability of faith-based organizations to meet the remaining requirements (e.g., by expanding the availability of technical assistance).
19. A critical role for a liaison official or office is to compile and maintain the most complete and accurate list possible of faith-based organizations that are potential collaborators with government or who provide services of interest to government.

Such a list should be used to expand RPF mailing lists, for sending out information about government programs and rules of particular concern to the faith community, and for sending invitations to conferences and other events of special interest to faith-based organizations.

Appendix *Two*

Charitable *Choice* in PRWORA

From Public Law 104-193, Personal Responsibility and Work Opportunity Reconciliation Act of 1996, enacted August 22, 1996, Title I: Block Grants for Temporary Assistance for Needy Families; 110 Stat. 2161; 42 U.S.C. § 604a.

Sec. 604a. SERVICES PROVIDED BY CHARITABLE, RELIGIOUS, OR PRIVATE ORGANIZATIONS.

(a) IN GENERAL.—

(1) STATE OPTIONS.—A State may—

- (A) administer and provide services under the programs described in subparagraphs (A) and (B)(i) of paragraph (2) through contracts with charitable, religious, or private organizations; and
- (B) provide beneficiaries of assistance under the programs described in subparagraphs (A) and (B)(ii) of paragraph (2) with certificates, vouchers, or other forms of disbursement which are redeemable with such organizations.

(2) PROGRAMS DESCRIBED.—The programs described in this paragraph are the following programs:

- (A) A State program funded under this part (as amended by section 103(a) of this Act).
- (B) Any other program established or modified under title I or II of this Act, that—
 - (i) permits contracts with organizations; or
 - (ii) permits certificates, vouchers, or other forms of disbursement to be provided to beneficiaries, as a means of providing assistance.

(b) RELIGIOUS ORGANIZATIONS.—The purpose of this section is to allow States to contract with religious organizations, or to allow religious organizations to accept certificates, vouchers, or other forms of disbursement under any program described in subsection (a)(2) of this section, on the same basis as any other nongovernmental provider without impairing the religious character of such organizations, and without diminishing the religious freedom of beneficiaries of assistance funded under such program.

(c) **NONDISCRIMINATION AGAINST RELIGIOUS ORGANIZATIONS.**—In the event a State exercises its authority under subsection (a) of this section, religious organizations are eligible, on the same basis as any other private organization, as contractors to provide assistance, or to accept certificates, vouchers, or other forms of disbursement, under any program described in subsection (a)(2) of this section so long as the programs are implemented consistent with the Establishment Clause of the United States Constitution. Except as provided in subsection (k) of this section, neither the Federal Government nor a State receiving funds under such programs shall discriminate against an organization which is or applies to be a contractor to provide assistance, or which accepts certificates, vouchers, or other forms of disbursement, on the basis that the organization has a religious character.

(d) **RELIGIOUS CHARACTER AND FREEDOM.**—

(1) **RELIGIOUS ORGANIZATIONS.**—A religious organization with a contract described in subsection (a)(1)(A) of this section, or which accepts certificates, vouchers, or other forms of disbursement under subsection (a)(1)(B) of this section, shall retain its independence from Federal, State, and local governments, including such organization's control over the definition, development, practice, and expression of its religious beliefs.

(2) **ADDITIONAL SAFEGUARDS.**—Neither the Federal Government nor a State shall require a religious organization to—

(A) alter its form of internal governance; or

(B) remove religious art, icons, scripture, or other symbols; in order to be eligible to contract to provide assistance, or to accept certificates, vouchers, or other forms of disbursement, funded under a program described in subsection (a)(2) of this section.

(e) **RIGHTS OF BENEFICIARIES OF ASSISTANCE.**—

(1) **IN GENERAL.**—If an individual described in paragraph (2) has an objection to the religious character of the organization or institution from which the individual receives, or would receive, assistance funded under any program described in subsection (a)(2) of this section, the State in which the individual resides shall provide such individual (if otherwise eligible for such assistance) within a reasonable period of time after the date of such objection with assistance from an alternative provider that is accessible to the individual and the value of which is not less than the value of the assistance which the individual would have received from such organization.

(2) **INDIVIDUAL DESCRIBED.**—An individual described in this paragraph is an individual who receives, applies for, or requests to apply for, assistance under a program described in subsection (a)(2) of this section.

- (f) **EMPLOYMENT PRACTICES.**—A religious organization’s exemption provided under section 2000e-1 of this title regarding employment practices shall not be affected by its participation in, or receipt of funds from, programs described in subsection (a)(2) of this section.
- (g) **NONDISCRIMINATION AGAINST BENEFICIARIES.**—Except as otherwise provided in law, a religious organization shall not discriminate against an individual in regard to rendering assistance funded under any program described in subsection (a)(2) of this section on the basis of religion, a religious belief, or refusal to actively participate in a religious practice.
- (h) **FISCAL ACCOUNTABILITY.**—
- (1) **IN GENERAL.**—Except as provided in paragraph (2), any religious organization contracting to provide assistance funded under any program described in subsection (a)(2) of this section shall be subject to the same regulations as other contractors to account in accord with generally accepted auditing principles for the use of such funds provided under such programs.
- (2) **LIMITED AUDIT.**—If such organization segregates Federal funds provided under such programs into separate accounts, then only the financial assistance provided with such funds shall be subject to audit.
- (i) **COMPLIANCE.**—Any party which seeks to enforce its rights under this section may assert a civil action for injunctive relief exclusively in an appropriate State court against the entity or agency that allegedly commits such violation.
- (j) **LIMITATIONS ON USE OF FUNDS FOR CERTAIN PURPOSES.**—No funds provided directly to institutions or organizations to provide services and administer programs under subsection (a)(1)(A) of this section shall be expended for sectarian worship, instruction, or proselytization.
- (k) **PREEMPTION.**—Nothing in this section shall be construed to preempt any provision of a State constitution or State statute that prohibits or restricts the expenditure of State funds in or by religious organizations.

Appendix *Three*

Charitable *Choice* in CSBG

From Public Law 105-285, Human Services Reauthorization Act of 1998, enacted October 27, 1998, Title II: Community Services Block Grant Program; 112 Stat. 2749; 42 U.S.C. § 9920.

Sec. 9920. OPERATIONAL RULE

- (a) **RELIGIOUS ORGANIZATIONS INCLUDED AS NONGOVERNMENTAL PROVIDERS.**—For any program carried out by the Federal Government, or by a State or local government under this chapter, the government shall consider, on the same basis as other nongovernmental organizations, religious organizations to provide the assistance under the program, so long as the program is implemented in a manner consistent with the Establishment Clause of the first amendment to the Constitution. Neither the Federal Government nor a State or local government receiving funds under this chapter shall discriminate against an organization that provides assistance under, or applies to provide assistance under, this chapter, on the basis that the organization has a religious character.
- (b) **RELIGIOUS CHARACTER AND INDEPENDENCE.**—
- (1) **IN GENERAL.**—A religious organization that provides assistance under a program described in subsection (a) of this section shall retain its religious character and control over the definition, development, practice, and expression of its religious beliefs.
- (2) **ADDITIONAL SAFEGUARDS.**—Neither the Federal Government nor a State or local government shall require a religious organization—
- (A) to alter its form of internal governance, except (for purposes of administration of the community services block grant program) as provided in section 9910 of this title; or
- (B) to remove religious art, icons, scripture, or other symbols; in order to be eligible to provide assistance under a program described in subsection (a) of this section.
- (3) **EMPLOYMENT PRACTICES.**—A religious organization's exemption provided under section 2000e-1 of this title regarding employment practices shall not be affected by its participation in, or receipt of funds from, programs described in subsection (a) of this section.

(c) **LIMITATIONS ON USE OF FUNDS FOR CERTAIN PURPOSES.**—No funds provided directly to a religious organization to provide assistance under any program described in subsection (a) of this section shall be expended for sectarian worship, instruction, or proselytization.

(d) **FISCAL ACCOUNTABILITY.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), any religious organization providing assistance under any program described in subsection (a) of this section shall be subject to the same regulations as other nongovernmental organizations to account in accord with generally accepted accounting principles for the use of such funds provided under such program.

(2) **LIMITED AUDIT.**—Such organization shall segregate government funds provided under such program into a separate account. Only the government funds shall be subject to audit by the government.

(e) **TREATMENT OF ELIGIBLE ENTITIES AND OTHER INTERMEDIATE ORGANIZATIONS.**—If an eligible entity or other organization (referred to in this subsection as an “intermediate organization”), acting under a contract, or grant or other agreement, with the Federal Government or a State or local government, is given the authority under the contract or agreement to select nongovernmental organizations to provide assistance under the programs described in subsection (a) of this section, the intermediate organization shall have the same duties under this section as the government.

Appendix *Four*

Charitable *Choice* Resources

A Guide to Charitable Choice: The Rules of Section 104 of the 1996 Federal Welfare Law Governing State Cooperation with Faith-based Social-Service Providers (Washington, DC: Center for Public Justice, and Annandale, Virginia: Center for Law and Religious Freedom of the Christian Legal Society, January 1997). Accessible at www.cpjustice.org.

Amy L. Sherman, *The Growing Impact of Charitable Choice: A Catalogue of New Collaborations Between Government and Faith-based Organizations in Nine States* (Washington, D. C.: Center for Public Justice, March, 2000).

Charitable Choice Compliance: A National Report Card (Center for Public Justice, Sept. 2000). Accessible at www.cpjustice.org.

Derek Davis and Barry Hankins, eds., *Welfare Reform and Faith-Based Organizations* (Waco, Texas: J.M. Dawson Institute of Church-State Studies, Baylor University, 1999).

Gretchen M. Griener, "Charitable Choice and Welfare Reform: Collaboration between State and Local Governments and Faith-Based Organizations," *Welfare Information Network Issue Notes*, Sept. 2000. Accessible at www.welfareinfo.org.

John Orr, et. al., "Faith-Based Organizations and Welfare Reform: California Religious Community Capacity Study, Qualitative Findings and Conclusions," Center for Religion and Civic Culture, October, 2000. Accessible at www.usc.edu/dept/LAS/religion_online/WelfareReform.

Ryan Streeter, ed., *Religion and the Public Square in the 21st Century: Proceedings from the Conference, "The Future of Government Partnerships with the Faith Community"* (Indianapolis: Hudson Institute, 2001).

Government and Faith-based Organizations

Carl H. Esbeck, *The Regulation of Religious Organizations as Recipients of Governmental Assistance* (Washington, DC: Center for Public Justice, 1996).

Stephen V. Monsma, *When Sacred and Secular Mix: Religious Nonprofit Organizations and Public Money* (Lanham, Maryland: Rowman & Littlefield, 1996).

Elliott Wright, "Federal Policy and Religious Access to Public Program Funds," *Faith-based Community Economic Development Bulletin* (National Congress for Community Economic Development), no. 2 (Spring/Summer 2000).

Charles Glenn, *The Ambiguous Embrace: Government and Faith-Based Schools and Social Agencies* (Princeton: Princeton Univ. Press, 2000).

Arthur E. Farnsley II, *Ten Good Questions About Faith-based Partnerships and Welfare Reform* (Indianapolis: The Polis Center at IUPUI, 2000).

Jessica Yates, "'Frequently Asked Questions' from State and Local Agencies About Involving the Faith Community in Welfare Reform," *Welfare Information Network FAQ: A Special Publication to Respond to Frequently Asked Questions* (Nov. 1998). Accessible at www.welfareinfo.org.

Jessica Yates, "Partnerships with the Faith Community in Welfare Reform," *Welfare Information Network Issue Notes*, vol. 2, no. 3 (March 1998). Accessible at www.welfareinfo.org.

Jim Castelli, *Faith-Based Social Services: A Blessing, Not a Miracle*, Progressive Policy Institute Policy Report No. 27 (December 1997).

Harold Dean Trulear, *The African-American Church and Welfare Reform* (Washington, DC: Center for Public Justice, 1999).

Constitutional Issues

Carl H. Esbeck, "A Constitutional Case for Governmental Cooperation with Faith-based Social Service Providers," *Emory Law Journal*, vol. 46, no. 1 (Winter 1997).

Carl H. Esbeck, "The Neutral Treatment of Religion and Faith-Based Social Service Providers: Charitable Choice and Its Critics," in Davis and Hankins, eds., *Welfare Reform & Faith-Based Organizations* (Waco, Texas: J.M. Dawson Institute of Church-State Studies, Baylor University, 1999).

Alan Brownstein, "Constitutional Questions About Charitable Choice," in Davis and Hankins, eds., *Welfare Reform & Faith-Based Organizations* (Waco, Texas: J.M. Dawson Institute of Church-State Studies, Baylor University, 1999).

Martha Minow, "Choice or Commonality: Welfare and Schooling After the End of Welfare As We Knew It," *Duke Law Journal*, vol. 49 (1999), pp. 493-559.

Key Web Sites on Charitable Choice

Center for Public Justice, www.cpjustice.org

Center for Law and Religious Freedom (Christian Legal Society),
www.christianlegalsociety.org

Welfare Information Network, www.welfareinfo.org

Welfare Peer Technical Assistance Network (Dept. of HHS),
www.calib.com/peerta

Critics of Charitable Choice

Americans United for Separation of Church and State, www.au.org

American Jewish Committee, www.ajc.org

Baptist Joint Committee, www.bjcpc.org

American Civil Liberties Union, www.aclu.org

