

September 2002

CHARITABLE CHOICE

Federal Guidance on Statutory Provisions Could Improve Consistency of Implementation



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Abbreviations

CAA	community action agency
CSBG	Community Services Block Grant
FBO	faith-based organization
HHS	Department of Health and Human Services
PRWORA	Personal Responsibility and Work Opportunity Reconciliation Act of 1996
RFP	request for proposal
SAPT	Substance Abuse Prevention and Treatment
TANF	Temporary Assistance for Needy Families
WTW	Welfare-to-Work



United States General Accounting Office
Washington, DC 20548

September 10, 2002

The Honorable Joseph I. Lieberman
Chairman
Committee on Governmental Affairs
United States Senate

The Honorable Elijah E. Cummings
Ranking Minority Member
Subcommittee on Criminal Justice,
Drug Policy, and Human Resources
Committee on Government Reform
House of Representatives

The federal government spends billions of dollars annually to provide services to the needy directly, or through contracts with a large network of social service providers. Faith-based organizations (FBO), such as churches and religiously affiliated entities, are a part of this network and have a long history of providing social services to needy families and individuals. In the past, religious organizations were required to secularize their services and premises, so that their social service activities were distinctly separate from their religious activities, as a condition of receiving public funds.¹ For example, the organizations often were required to incorporate separately from their sponsoring religious institution, refrain from religious activities in the publicly funded services, and remove religious symbols from the premises where the services were provided. Beginning with the passage of the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996,² the Congress enacted “charitable choice” provisions, which authorized religious organizations³ to compete on the same basis as other organizations for federal funding under certain programs without having to alter their religious character or governance. These charitable choice provisions also

¹This was based on a number of Supreme Court opinions, which interpreted the First Amendment and addressed the eligibility of religious organizations to receive federal funds. See *Committee for Public Education v. Nyquist*, 413 U.S. 756 (1973).

²P.L. 104-193, sec. 104, Aug. 22, 1996.

³The federal legislation applies to charitable, religious, or private organizations, but does not specifically define the term religious organization.

require that the programs be implemented in a manner consistent with the First Amendment to the Constitution. These statutory provisions cover several programs, among them Temporary Assistance for Needy Families (TANF) and Welfare-to-Work (WTW). Similar provisions also apply to the Community Services Block Grant (CSBG) and the substance abuse prevention and treatment (SAPT) programs. These charitable choice provisions contain certain safeguards that were intended to protect the interests of the various parties—governments, FBOs, and beneficiaries—involved in federally funded financial agreements under these programs.⁴ For example, if a beneficiary objects to the religious nature of a service provider, the state or locality must make available an alternative provider that is without religious affiliation.

Because the Congress has recently considered enacting charitable choice provisions in other programs, you asked us to report on how current provisions have been implemented. Specifically, you asked:

- What is known about the extent and nature of financial agreements between FBOs and government entities nationally and in selected states?
- What factors have constrained or complicated financial agreements with FBOs?
- How have the federal charitable choice provisions intended to provide safeguards for various parties been implemented and what, if any, problems have arisen?
- How are FBOs being held accountable for performance and what information is available regarding their performance?

To obtain a national perspective on charitable choice, we analyzed the results of our 50-state survey of TANF contracting,⁵ interviewed federal officials who oversee programs with charitable choice provisions, and reviewed federal agency reports on barriers to contracting with FBOs and the implementation of charitable choice provisions. To obtain more specific information about how charitable choice has been implemented, we visited 5 states—Georgia, Indiana, Texas, Virginia, and Washington—and conducted telephone interviews with faith-based liaisons established in 15 states. We selected these 5 states to obtain a range in the levels of

⁴Financial agreements include contracts, grants, and memorandums of understanding.

⁵U.S. General Accounting Office, *Welfare Reform: Federal Oversight of State and Local Contracting Can Be Strengthened*, GAO-02-661 (Washington, D.C.: June 11, 2002).

both state government activities with regard to faith-based initiatives and contracting with FBOs, as well as geographic dispersion. In each state, we interviewed state and local government officials who administered programs with charitable choice provisions, representatives of FBOs, and representatives of agencies involved in contracting for social services. We performed our work between September 2001 and July 2002 in accordance with generally accepted government auditing standards. For more details on our scope and methodology, see appendix I.

Results in Brief

Overall, faith-based organizations receive a small proportion of the government funding provided to nongovernmental contractors, according to results from our national TANF survey and the interviews we conducted in five states. Our national survey found that contracts with faith-based organizations accounted for 8 percent (or \$80 million) of the \$1 billion in federal and state TANF funds spent by state governments on contracts with nongovernmental entities in 2001. The proportion of these funds contracted with FBOs ranges from 0 to 32 percent across states. FBOs also received a small proportion of the competitive grant portion of Welfare-to-Work funds in recent years; however, national data are not available for the remaining portion of these funds. National data are also not available on the magnitude of contracting with FBOs for Community Service Block Grant and Substance Abuse Prevention and Treatment Block Grant programs. However, we were able to obtain data on contracts with FBOs using these funds in the five states we visited and found that these FBOs receive small amounts of these funds as well. Almost all FBOs we visited had nonprofit tax-exempt status and most were organizations that had contracted with the government before charitable choice. While the size and structure of these FBOs varied, most were affiliated with Christian denominations and most contracted to provide TANF-funded services. Under these contracts, FBOs provided numerous services in line with the key uses of each program's funds and sometimes provided additional services. For example, while more FBOs provided services such as job preparation, several of the FBOs provided additional services, such as mentoring or fatherhood training.

Although charitable choice was intended to allow FBOs to contract with government in these programs, several factors continue to constrain the ability of small FBOs to contract with the government. These factors include FBOs' lack of awareness of funding opportunities, limited administrative and financial capacity, inexperience with government contracting, and beliefs about the separation of church and state. However, many of these limitations are not unique to FBOs but are common to small organizations with little or no experience in seeking

government contracts. Small FBOs are unaware of funding opportunities unless they have past experience with the government, according to some FBO and government officials we interviewed. In addition, FBOs' limited capacity for dealing with the complex administrative and financial requirements of government contracting places them at a disadvantage when competing against larger, more experienced providers. Although officials in the states we visited reported no legal barriers to prevent religious organizations from partnering with the government, some officials noted that their history of a strong separation of church and state might lead all parties to be cautious about collaboration. In the states we visited, government agencies differed in their approaches to identification and removal of constraints that can limit financial contracting between FBOs and government. Indiana, Texas, and Virginia have actively addressed such constraints by providing FBOs with broader access to information and educational assistance in pre-contracting procedures, while other states have been less active in addressing constraints. Federal agencies have also taken steps to address constraints by establishing funding for small faith-based and community organizations to develop or expand model social service programs.

State and local officials in the five states we visited differed in their understanding and implementation of certain charitable choice safeguards, such as the prohibition on the use of federal funds for religious worship or instruction; however, the incidence of problems involving safeguards is unknown. Certain charitable choice safeguards are subject to interpretation, and federal agencies have issued little guidance to states and localities explaining how to interpret these provisions. Because of this lack of guidance, some officials expressed confusion about a few of the safeguards, namely, those concerning what constitutes prohibited religious activities and whether FBOs can hire on the basis of faith. For example, several state and local officials told us that prayer is not allowed during publicly funded services, while many FBOs told us that voluntary prayer during such activities is permissible. Another consequence of this lack of guidance is that state implementation of charitable choice rules differed. Some states and localities did outreach activities or included safeguard language in requests for proposals, while others did not explicitly communicate safeguards to FBOs and clients. Although officials in the states we visited reported receiving very few complaints from clients receiving services from FBOs, the incidence of safeguard violations is unknown. Most state and local agencies rely on complaints and grievance procedures to identify discrimination or proselytizing, and in some cases clients and FBOs may not be aware of their protections under charitable choice.

Faith-based organizations are held accountable for performance in the same way as other organizations contracting with the government, according to state and local officials in the five states we visited. However, little information is available to compare the performance of FBOs to that of other organizations. Government officials in these states said that they held all contractors accountable on the basis of the provisions of their contracts and monitored all contractors in a consistent manner. However, comparative information on the contractors' performance was unavailable for several reasons. Some types of contracts did not specify performance outcomes, and even when they did, some state and local officials said that comparative performance information was unavailable. In those few cases where contractors shared the same specified performance outcomes, state and local officials had not compared the performance of FBOs to that of other contractors. Most state and local officials believed FBOs performed at least as well as other organizations overall, even though they did not provide data to support that belief. Two university-based research studies are currently underway to provide information on the performance of FBOs in delivering social services.

We are making a recommendation in this report to the Secretary of the Department of Health and Human Services (HHS) to issue guidance to state and local agencies on charitable choice safeguards that have been found to be unclear or confusing. HHS agreed with our recommendation and said that it is in the process of developing and issuing guidance.

Background

To increase the involvement of religious organizations in the delivery of social services, the Congress included charitable choice provisions in the legislation for several federal programs. These provisions were designed to remove legal or perceived barriers that religious organizations might face in contracting with the federal government. First enacted in 1996, charitable choice provisions apply to administrators, service providers, and recipients of TANF and WTW funds, as established through PRWORA. Subsequently, the Congress included charitable choice provisions in the 1998 reauthorization of the CSBG program and the amendments to the Public Health Services Act in 2000 affecting the SAPT block grant program.

Program Funding

Funding levels for programs with charitable choice provisions vary considerably, with TANF having the highest level of funding (see table 1). These programs allocate funds in a variety of ways. TANF, CSBG, and SAPT are block grants, which are distributed in lump sums to states. WTW has two funding streams, one of which is comprised of state formula grants that are mostly passed on to localities and the other representing a

smaller portion of funds called national competitive grants, which the Department of Labor awarded directly to local applicants. Most federal funding for these programs is administered by state or local government entities, which have the ability to contract with social service providers, including religious organizations.

Table 1: Funding and Objectives of Programs with Charitable Choice Provisions, Fiscal Year 2001

Programs	Federal funding	Key uses of program funds	Administration of funds
TANF	\$16.5 billion ^a	Providing assistance to needy families, including promoting job preparation, work, and marriage; preventing and reducing out-of-wedlock pregnancies; and encouraging the formation and maintenance of two-parent families.	TANF is a block grant to states, which can choose to administer TANF funds at the state level, local level, or both.
WTW	\$3 billion for FY 1998-99 ^b	Grants were designed to focus on helping long-term welfare recipients find unsubsidized employment.	Seventy-five percent of WTW funds were distributed to states through formula grants to pass on to local workforce boards through sub-grants. Twenty-five percent of WTW funds were designated for competitive grants, which were administered at the federal level.
SAPT	\$1.7 billion	Substance abuse prevention and treatment services for persons at risk of using or abusing alcohol, tobacco, and illicit drugs.	SAPT is a block grant to states, which have broad discretion on how they distribute funds—so long as these funds are passed on to a public or nonprofit entity.
CSBG	\$600 million	CSBG funds are used for activities designed to have a measurable and potentially major impact on causes of poverty. The law envisions a wide variety of activities undertaken on behalf of low-income families and individuals. Examples of CSBG-funded services include emergency assistance, transportation, and domestic violence crisis assistance.	States are required to pass through at least 90 percent of their federal block grant allotments to eligible entities—primarily community action agencies—to provide or subcontract out services.

^aPRWORA authorized \$16.5 billion in federal TANF funding to states each year through fiscal year 2002. In addition, PRWORA includes a maintenance-of-effort provision, which requires states to provide 75 to 80 percent of their historic level of funding.

^bWhile additional funds were not authorized beyond this time period, WTW grantees (both competitive and formula) have a maximum of 5 years from their award date to expend their funds.

Charitable Choice Safeguards

In addition to establishing that FBOs can compete for public funds while retaining their religious nature, charitable choice provisions are intended to safeguard the interests of the various parties involved in financial agreements to provide services (see table 2). While charitable choice provisions vary somewhat by program, they all share common themes of protecting religious autonomy among service providers, safeguarding the interests of beneficiaries of federally funded services, and ensuring that all contracting agencies, including religious organizations, are held financially accountable.

Table 2: Charitable Choice Safeguards and the Key Parties They Are Designed to Protect

Safeguards	Government entities	FBOs	Beneficiaries
Government must allow religious organizations to compete for, or receive, federal funding for the provision of social services on the same basis as any other nongovernmental provider.		X	
If a beneficiary objects to the religious nature of a provider, the state or locality must make available an alternative (nonreligious) accessible provider.			X
Government is prohibited from requiring an FBO to change its form of internal governance or to remove religious art, icons, and symbols.		X	
FBOs are not required to separate their religious nature from their social service activities to receive government funding.		X	
FBOs retain the ability to make employment decisions on religious grounds, even after receiving federal funds.		X	
FBOs are subject to the same financial audit regulations for federal funds as are other nongovernmental organizations.	X		
FBOs must not use public funds received directly for the purpose of worship, religious instruction, or proselytizing.	X		X
FBOs cannot discriminate on the basis of religion in providing services to clients.			X

FBOs Received a Small Proportion of Contracted Funds and Most Had Previously Contracted with the Government

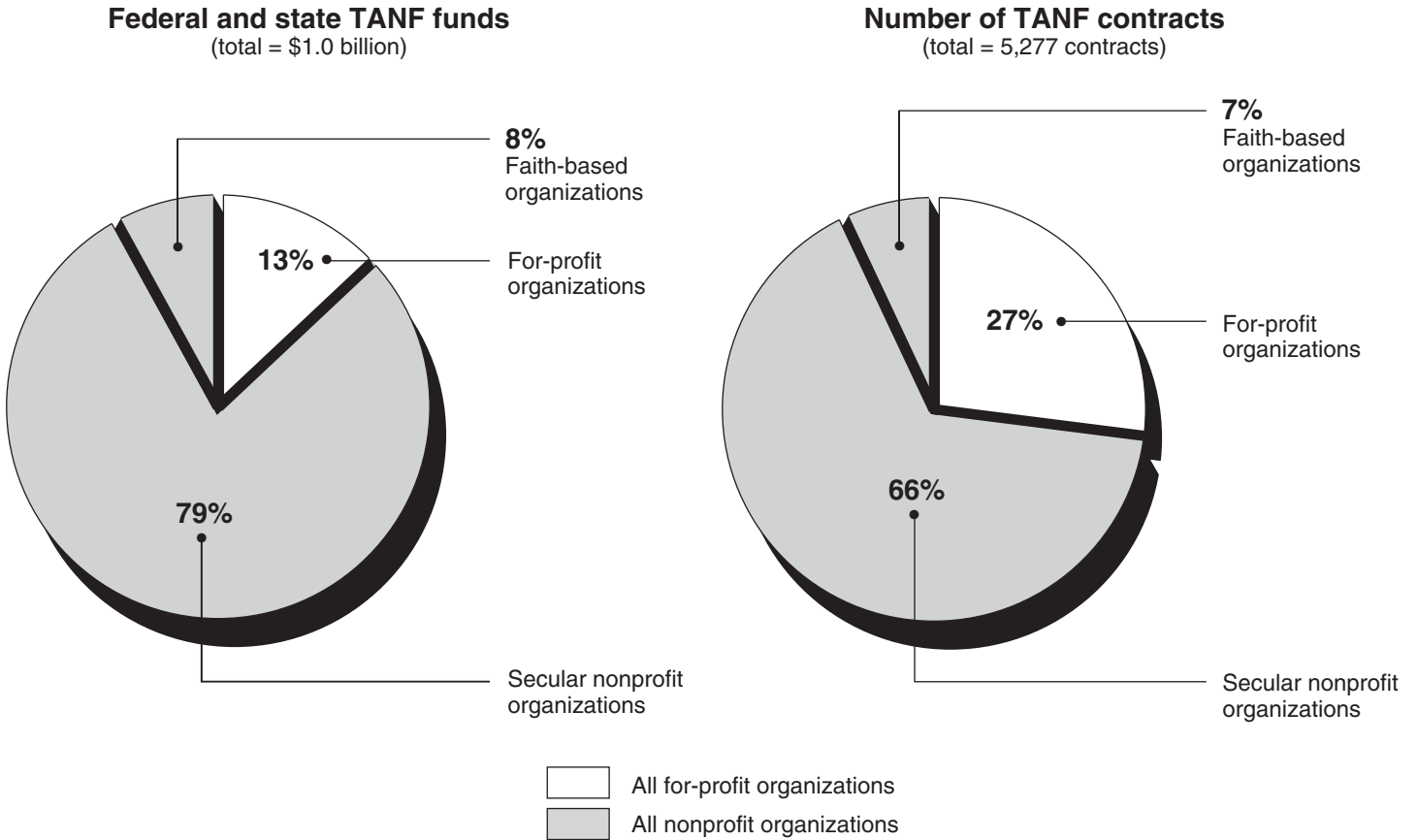
Overall, FBOs contracted for a small proportion of the government funding available to nongovernmental contractors under the four programs we examined. Contracts with FBOs accounted for 8 percent (or about \$80 million) of the \$1 billion in federal and state TANF funds spent by state governments on contracts with nongovernmental entities in 2001, and 2 percent (or about \$16 million) of the \$712 million Welfare-to-Work competitive grant funds in fiscal years 1998 and 1999. National data are not available on the proportion of contracted funds FBOs received for CSBG, SAPT, and Welfare-to-Work formula grants. However, state data indicate that FBOs received a small proportion of CSBG and SAPT funds in the five states we visited. All FBOs that we visited had tax-exempt status and most were incorporated separately from religious institutions. In addition, a majority had established contracts with the government before the passage of charitable choice provisions in legislation; most were affiliated with Christian denominations; and most contracted for TANF funds. Under the contracts we examined, FBOs provided an array of services in

line with the key uses of each program's funds and sometimes provided additional services such as mentoring or fatherhood training.

**Contracts with FBOs
Constitute a Small
Proportion of Government
Contracting**

Contracting with FBOs constituted a relatively small proportion of all contracting with nongovernmental entities using federal and state TANF funds in 2001, according to our national survey. TANF contracting occurs only at the state level in 24 states, only at the local level in 5 states, at both levels in 20 other states, and in the District of Columbia. TANF contracting does not occur in South Dakota. The majority of the approximately \$1 billion in federal and state TANF funds spent by state governments on contracts with nongovernmental entities nationwide went to secular nonprofit organizations, as shown in figure 1. In contrast, contracts with FBOs accounted for 8 percent of the contracted funds.

Figure 1: Percentage of Federal and State TANF Funds and TANF Contracts, by Type of Contractors for State-Level Contracting, 2001



Note: Figure 1 provides information on state-level contracting only and does not include local contracts. Our national TANF contracting survey also identified 1,517 TANF contracts at the local level, which accounted for over \$500 million in federal and state funds.

Source: GAO's national survey of TANF contracting.

While FBOs received a small proportion of federal and state TANF funds contracted out in 2001 at the state level, this proportion varied considerably across states, as shown in table 3. New Jersey spent over 32 percent of these funds on contracts with FBOs. Nine states and the District of Columbia spent more than 15 percent of these federal and state TANF funds on contracts with FBOs. In contrast, 23 states awarded to FBOs less than 5 percent of the federal and state TANF funds they contracted out to nongovernmental organizations. While table 3 depicts contracting by state governments, it does not include information on contracting by local entities. In states such as California, New York, and Texas, TANF contracting occurs predominately at the local level. Our national survey of TANF contracting identified more than \$500 million in local government contracts with nongovernmental entities. About 8 percent of these funds were with FBOs.⁶

Table 3: State-level TANF Contracting with FBOs, 2001

Dollars in millions

State	Total value of TANF contracts between state and nongovernmental entities	Percentage of contracted funds with FBOs	Total number of contracts between state and nongovernmental entities	Percentage of contracts with FBOs
Alabama	\$2.9	3	24	21
Alaska	\$1.3	0	2	0
Arizona ^a	\$13.7	3	120	4
Arkansas ^a	\$4.1	0	10	0
California ^a	\$0.7	0	5	0
Connecticut ^a	\$1.7	0	2	0
Delaware	\$5.5	19	8	25
District of Columbia	\$46.0	19	10	20
Georgia ^a	\$23.6	1	123	6
Hawaii	\$0.7	0	2	0
Idaho	\$17.3	1	22	5
Illinois	\$111.9	12	1,989	7
Indiana	\$23.3	15	223	3
Iowa	\$1.8	24	23	13
Kansas	\$2.1	19	83	11

⁶While our national survey of TANF contracting provides comprehensive information on contracting at the state level, it provides incomplete and nonrepresentative information on local contracting. For additional information on the scope and methodology of the survey, see appendixes I and II of U.S. General Accounting Office, *Welfare Reform: Federal Oversight of State and Local Contracting Can Be Strengthened*, [GAO-02-661](#) (Washington, D.C.: June 11, 2002).

Dollars in millions

State	Total value of TANF contracts between state and nongovernmental entities	Percentage of contracted funds with FBOs	Total number of contracts between state and nongovernmental entities	Percentage of contracts with FBOs
Kentucky ^a	\$3.2	0	14	0
Louisiana	\$11.5	15	159	13
Maine	\$3.1	3	12	17
Massachusetts ^a	\$64.1	5	159	8
Michigan	\$52.8	17	384	16
Minnesota ^a	\$4.7	0	27	0
Mississippi ^a	\$49.0	^b	475	^b
Missouri ^a	\$12.7	11	118	13
Montana	\$7.5	0	14	0
Nebraska	\$7.1	0	12	0
Nevada ^a	\$4.1	0 ^c	43	5
New Hampshire	\$3.5	0	10	0
New Jersey ^a	\$32.8	32	22	5
New York ^a	\$45.3	13	159	13
North Carolina ^a	\$2.8	21	24	25
North Dakota	\$1.4	29	3	33
Oklahoma	\$2.6	21	37	8
Oregon	\$0.9	7	35	11
Pennsylvania ^a	\$157.8	2	164	6
Rhode Island	\$5.3	13	63	8
South Carolina ^a	\$15.4	2	16	13
Tennessee	\$41.9	7	56	11
Texas ^a	\$0.4	0	1	0
Utah ^a	\$3.9	0	197	0
Vermont	\$6.6	6	36	3
Virginia ^a	\$6.1	1	104	3
Washington ^a	\$33.2	23	152	8
West Virginia	\$10.8	7	39	13
Wisconsin	\$152.9	1	95	4
Wyoming	\$0.4	0	1	0

Note: Colorado, Florida, Maryland, New Mexico, Ohio, and South Dakota are not included in table 3 because they do not contract for TANF services at the state level.

^a TANF contracting in these states occurs at both the state and local level. Table 3 provides data on TANF contracts by state government entities only and does not include data on local-level TANF contracts.

^b State officials did not know how much of their TANF contracts and funds went to FBOs.

^c 0.1 percent.

Source: GAO's national survey of TANF contracting.

In addition, national data show that a small proportion of WTW competitive grant funds went to FBOs. According to Labor, 6 of 191 contracts for these funds went to FBOs in fiscal years 1998 and 1999; these contracts totaled \$16.2 million, or approximately 2 percent of WTW competitive grant funds in those years.⁷

National data are not available to indicate the magnitude of contracting with FBOs in other charitable choice programs we examined. Labor did not have information about the proportion of WTW formula grants that went to FBOs. States administer these grant funds through local entities. In addition, HHS has not compiled national data on the level of contracting with FBOs using CSBG and SAPT funds.

Although national information is not available, in the five states we visited we found that FBOs received 9 percent or less of SAPT funds contracted out by states. In addition, FBOs represented between 2 and 20 percent of the organizations licensed or certified by these five states to provide substance abuse treatment services, as shown in table 4.

Table 4: Contracting with FBOs Using SAPT Funds, Federal Fiscal Year 2001

Dollars in millions

State	Total funds contracted out to nongovernmental entities	Percentage of funds contracted with FBOs	Number of licensed treatment providers eligible to receive funds	Percentage of licensed treatment providers eligible to receive funds that are FBOs
Georgia	\$29.4	7	244 ^a	5
Indiana ^b	\$23.6	9	25 ^c	20
Texas ^d	\$68.9	5	322	2
Virginia ^b	\$38.4	0 ^e	234	1
Washington	\$33.8	3	519	8

^aIncludes multiple service sites for some service contractors.

^bData provided by Indiana and Virginia are for state fiscal year 2002 (7/1/2001 to 6/30/2002).

^cIndiana subcontracts to providers through 25 certified organizations.

^dData provided by Texas are for 9/1/2000 to 8/30/2001.

^e0.2 percent.

⁷Department of Labor Report to White House Office of Faith-Based and Community Initiatives.

¹State officials could not provide the number of licensed treatment providers that are FBOs.

Source: Data provided by state-level program officials in five states.

In addition, in the five states we visited, FBOs received a small proportion of the overall CSBG funds passed through by states. States allocate these funds to “eligible entities,” primarily community action agencies (CAAs), which include mostly private, nonprofit organizations but also some public agencies. None of the eligible entities in the five states we visited were FBOs. However, some of them subcontracted with other providers, including FBOs, for services. In Texas and Washington, FBOs received more than half of these subcontracted funds, as shown in table 5.

Table 5: Contracting with FBOs Using CSBG Funds, Federal Fiscal Year 2001

State	CSBG funds passed through by the state to CAAs	Funds subcontracted by CAAs to nongovernmental entities	Percent of funds subcontracted by CAAs to FBOs
Georgia	\$14,429,044	\$211,687	2
Indiana ^a	\$8,801,452	\$410,043	14
Texas	\$25,847,538	\$1,333,809	55
Virginia ^a	\$8,309,697	^b	^b
Washington ^a	\$6,291,396	\$582,086	69

^aWhile we requested data for federal fiscal year 2001, Indiana and Washington officials provided calendar year 2001 figures and Virginia provided state fiscal year 2001 (7/1/00-6/30/01) figures.

^bVirginia state officials could not provide the total amount of CSBG funds subcontracted by CAAs.

Source: Data provided by state-level program officials in five states.

Most FBOs We Visited Were Incorporated Separately from Religious Institutions and a Majority Previously Had Government Contracts

All of the FBOs we visited had tax-exempt status; most were incorporated separately from religious institutions; and a majority of them had a fairly long history of contracting with the government. While 31 of the 35 FBO contractors we visited had been established to be independent of religious institutions, all of them had tax-exempt status under section 501(c)(3) of the Internal Revenue Code. Several of these FBOs told us that they needed this status to compete for nongovernmental sources of funding, such as funding from private foundations. Some FBOs noted that this status established them as a legal entity separate from a church so that the church would be protected from liability for the services the FBO offered. Moreover, some FBO officials told us that 501(c)(3) status gave their program added credibility and an established presence in the community. Of the 35 FBO contractors we visited, 21 had contracted with the government before the passage of charitable choice legislation in the

relevant programs. One FBO had provided services through government contracts since 1913.

The FBOs we selected for interviews in the five states we visited varied in size and structure but shared some commonalities. While some FBOs were very small, operating on a budget of less than \$200,000, others had large annual budgets, as high as \$60 million. Some of the FBOs we visited operated independently; some were multidenominational coalitions of churches; and others were affiliated with a national religious organization, such as Catholic Charities, the Association of Jewish Family & Children's Services, or the Salvation Army. Twenty-nine of the 35 FBOs were affiliated with the Christian faith and included various Christian denominations, for example, Baptist, Methodist, and Lutheran. Finally, about two-thirds of these FBOs contracted for TANF-funded services.

FBOs we visited contracted for services that matched the key uses of each program's funds and sometimes included additional features. While more FBOs provided services closer to the key uses of TANF program funds, such as job preparation, several of the FBOs contracting for TANF services included fatherhood programs or forms of mentoring in their programs. FBOs that contracted for WTW funds mostly provided job training and placement; one also helped clients find daycare services. FBOs contracting for SAPT funds provided prevention and treatment of substance abuse. The two FBOs that contracted for CSBG funds offered services that included parent education, case management for families with a variety of needs, and medical services.

Limited Awareness, Limited Capacity, and Inexperience Constrain Some FBOs from Government Contracting

While charitable choice has created opportunities for FBOs, several factors continue to constrain some FBOs from contracting with the government. These factors include FBOs' limited awareness of funding opportunities, limited administrative and financial capacity, inexperience with government contracting, and beliefs about the separation of church and state. However, most of these limitations are not unique to FBOs but are common to small, inexperienced organizations seeking to enter into contracts with government. Although most officials in the states we visited reported no legal barriers to prevent religious organizations from partnering with government, some officials noted that their history of a strong separation of church and state might lead all parties to be cautious about collaboration. Government agencies in the states we visited differed in their approaches to identification and removal of constraints that can limit financial contracting between FBOs and government. Most states we visited have broadened access to information and provided assistance for FBOs, while others have been less active in identifying and addressing

constraints. Federal agencies have also taken steps to address constraints by establishing funding for small faith-based and community organizations to develop or expand model social service programs.

Factors That Constrain FBOs in Government Contracting Include Their Limited Awareness, Limited Capacity, and Inexperience with Government

Small FBOs are generally unaware of funding opportunities unless they have past experience with government, according to some FBO and government officials we interviewed. Notices about funding opportunities are sent to current provider mailing lists, to newspapers, and sometimes to agency Web sites. Because state and local governments are not required to promote a broader awareness of funding opportunities for new providers under current charitable choice provisions, government agencies in less active states have not taken steps to disseminate information about funding opportunities to FBOs. As a result, potential service providers that are not on current notification lists, including FBOs, may remain unaware of upcoming funding opportunities while experienced providers have advance notice.

Moreover, small, inexperienced FBOs are disadvantaged by their limited administrative capacity, according to many government and FBO officials we interviewed. Small FBO providers often lack the administrative resources necessary to deal with the complex paperwork requirements of government contracting. Local program officials said that some new FBO providers may have never submitted a budget, or may overestimate their capacity to provide services, or may have difficulty with reporting requirements. Some small FBOs we interviewed rely on one person—who may have other duties—or a small number of staff and volunteers, to perform administrative tasks. Government officials told us that small faith-based contractors inexperienced in government contracting often required administrative and technical assistance.

Similarly, FBO officials have expressed concerns about the financial constraints of government contracting. Some FBO officials we interviewed reported experiencing cash flow problems resulting from start-up costs and payment delays. In some cases, their churches helped with start-up funds, or other expenses, including overhead and indirect assistance. Furthermore, in a March 2001 survey conducted by the Georgia Faith-Based Liaison,⁸ religious leaders reported that while they were interested

⁸National Center for Strategic Nonprofit Planning and Community Leadership, *Planning for the Implementation of Charitable Choice: Faith-Based Forums & Community Dialogue, A Forum for Georgia's Faith Leaders*, March 2001.

in government contracting, they had concerns regarding their limited financial capacity to manage publicly funded programs. These same leaders also expressed concerns about their financial capacity if they were to offer child-care or social services for welfare clients because of the risks associated with payment delays.

Most state and local officials in the states we visited reported that no legal barriers exist to prevent FBOs from contracting with the government in programs with charitable choice provisions. However, some officials noted that perceptions about the separation of church and state might cause both FBO and government officials to be cautious about entering into contracts. One state lawmaker in Georgia identified the state's constitution as one source of this perception, noting that it contains language forbidding the funding of religious organizations with state funds. Because of confusion over whether the state constitution also applied to federal funds, Georgia adopted a law that specified that charitable choice allowed religious organizations to receive federal funding.

Most government officials we interviewed told us that state licensure or certification requirements for substance abuse treatment providers do not restrict religious organizations from participating in publicly funded treatment programs. However, in all of the states we visited, substance abuse treatment providers are required to be licensed or certified in order to be eligible for publicly funded contracts. Government officials noted that because the health and safety requirements attached to licensing can be costly, they might pose a barrier to small FBOs that want to be licensed to offer this service. To address this, lawmakers in the state of Washington proposed easing licensing requirements for FBO substance abuse treatment providers. However, this proposal was not approved because of concerns that this would lower standards for FBO providers.

Government and FBO officials we interviewed in several states reported that some FBOs prefer not to partner with government for various reasons. For example, some faith-based providers do not want to separate their religion from their delivery of services. In a recent survey conducted by Oklahoma's Office of Faith-Based and Community Initiative to identify barriers to collaboration, religious leaders reported that they were concerned about potential erosion of their religious mission, government intrusion into affairs of the congregation, and excessive bureaucracy.

States Vary in Their Approach to Addressing Constraints

While states we visited differed in their approaches, some states have taken more active strategies toward addressing factors that constrain FBOs from government contracting. Some states, such as Texas and Virginia, established task forces to advise the governor or legislature about actions for improving government collaboration with FBOs. To promote awareness and facilitate collaborations with FBOs, 20 states⁹ have appointed faith-based liaisons since the enactment of charitable choice provisions in the current law. Four of the five states we visited directed outreach activities to engage religious leaders and government officials in discussions of the perceived barriers to collaboration and to promote awareness of funding opportunities.

Some states took steps to strengthen the administrative capacity of FBOs by providing informational opportunities and developing educational material for FBOs unfamiliar with government contracting. Indiana, Virginia, and Texas conducted informational sessions and workshops for FBOs. In addition, Virginia and Indiana created educational handbooks dedicated to new faith-based social service providers with information on topics such as applying for government funding, writing grants, and forming a nonprofit, tax-exempt 501(c)(3) organization. Some state and local officials we interviewed told us that they offer assistance and administrative information to any small, new provider during the pre-contracting phase.

Other states, which we did not visit, reported that they created separate funding for their faith-based initiatives. New Jersey set up its own Office of Faith-Based and Community Initiative and funded it using only state funds, according to the New Jersey faith-based liaison. This office began awarding grants for services such as day care, youth mentoring, and substance abuse treatment to FBOs in 1998 and plans to award \$2.5 million in grants this year to faith-based providers. North Carolina developed a "Communities of Faith Initiatives," which set aside \$2.45 million in TANF funds for its Faith-Demonstration awards in 1999 and 2000 to contract with various FBOs for job retention and follow-up demonstration pilots.

⁹The states are Arizona, Arkansas, California, Colorado, Georgia, Illinois, Indiana, Kansas, Maryland, Michigan, Montana, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina, Texas, and Virginia. This information was compiled by the Center for Public Justice as of July 2002. See <http://www.cpjustice.org/charitablechoice/faithbystate>.

Federal Agencies Have Also Taken Actions to Address Constraints

Federal agencies have also acted to identify and address constraints to government collaborations with FBOs. President Bush issued two executive orders in January 2001, establishing the White House Office of Faith-Based and Community Initiatives and Centers for Faith-Based and Community Initiatives in five federal agencies.¹⁰ These agencies have reported on barriers to collaboration with FBOs and outlined recommendations to address some of the barriers. Moreover, a Compassion Capital Fund of \$30 million was approved in the fiscal year 2002 budget as part of the Labor, HHS, and Education appropriations.¹¹ The funds are to be used for grants to charitable organizations to emulate model social service programs and encourage research on the best practices of social services organizations. In addition, Labor established another funding source to enhance collaborations with faith-based and community providers. Labor's Employment and Training Administration announced on April 17, 2002, the availability of grant funding geared toward helping faith-based and community-based organizations participate in the workforce development system.

Understanding and Implementation of Charitable Choice Safeguards Vary and Incidence of Violations Is Unknown

In the five states we visited, understanding and implementation of charitable choice safeguards differed, and the incidence of problems involving safeguards is unknown. A few of the safeguard provisions specified in federal law are subject to interpretation, and federal agencies have issued limited guidance on how to interpret them. As a result, some government and FBO officials expressed confusion concerning two matters: (1) allowable activities under the prohibition on the use of federal funds for religious instruction or proselytizing and (2) FBOs' ability to hire on the basis of faith. State and local government entities also differed in how they interpret the charitable choice safeguards and their approaches to communicating them to FBOs. Officials in the states we visited reported receiving few complaints from FBO clients. These officials relied on complaints and grievance procedures to identify discrimination or proselytizing, and in some cases FBOs and clients may not be aware of the charitable choice safeguards. Therefore, violations of the safeguard requirements may go unreported or undetected.

¹⁰The five agencies are the Departments of Education, Housing and Urban Development, Labor, Justice, and HHS.

¹¹P.L. 107-116.

Federal Agencies Have Issued Limited Guidance on Safeguards

In the 6 years since charitable choice provisions were passed as part of PRWORA, federal agencies have issued limited guidance to state agencies concerning charitable choice safeguards—such as the prohibition on the use of federal funds for religious instruction or proselytizing—and how they should be implemented. Even though HHS has recently created a charitable choice Web site outlining most of the safeguards and has sponsored workshops featuring charitable choice issues, it has not issued guidance to states on the meaning of the provisions designed to safeguard parties involved in government contracting. According to an HHS official, although they have drafted guidance for charitable choice provisions as they apply to substance abuse prevention and treatment programs, this document has not been released. HHS officials told us that the agency did not write regulatory language concerning charitable choice and TANF because PRWORA specifically limits HHS from regulating the conduct of states under TANF, except as expressly provided in the law. While PRWORA includes charitable choice provisions, the law does not indicate that HHS may prescribe how states must implement these provisions. With respect to CSBG funds, HHS’s Office of Community Services has distributed an information memorandum to states communicating the safeguards as they are listed in the CSBG law, but this memorandum does not offer guidance on how states should interpret the safeguard provisions. Finally, Labor’s solicitation of grant applications for WTW competitive grants specifically mentioned that FBOs were eligible to apply for the funds, but Labor did not issue guidance concerning charitable choice safeguards. Labor reported that in the case of WTW formula grants, the only information it gave to states was to note charitable choice provisions in the planning guidance it issued initially for the program.

Officials Implementing Charitable Choice Provisions Differed in Their Understanding of Certain Safeguards

Most state and local officials we interviewed knew that charitable choice provisions were meant to allow FBOs to participate in the contracting process on the same basis as other organizations and understood that the law prohibits the use of public funds for religious worship, instruction, or proselytizing; however, they often differed in their understanding of allowable religious activities. Several state and local officials reported that prayer was not allowed in the delivery of publicly funded social services, while many FBO officials said that voluntary prayer was permissible during such services. PRWORA and other laws with charitable choice provisions do not define what constitutes proselytizing or religious worship and federal guidance concerning this matter has not been issued to state and local government entities. Without guidance from HHS, consistency in interpretations is unlikely.

Some state, local, and FBO officials we interviewed were unaware of the charitable choice safeguard allowing religious organizations to retain limited exception to federal employment discrimination law. This safeguard exempts religious organizations from the prohibition against discrimination on the basis of religion in employment decisions, even when they receive federal funds. For example, even though the law allows FBOs to make hiring decisions on the basis of faith, one government official said that the boilerplate language in the agency's contracts with service providers specifically indicates that providers are not allowed to discriminate in employment decisions on the basis of religion. Other state and local officials we interviewed were aware of this safeguard, but some perceived it to be in conflict with local antidiscrimination laws. In particular, one local agency official said that up to 17 percent of the local population consisted of sexual minorities and expressed concern that they would be discriminated against in both the hiring and the delivery of services. In contrast, almost all FBO officials we interviewed said that they do not consider faith when making hiring decisions for any of their organizations' positions. In addition, all FBO officials we interviewed said they do not consider the faith of the client in the delivery of their services.

States and Localities Varied in the Extent to Which They Communicated Information about the Safeguards

Some states were more active than others in communicating charitable choice safeguards to the various parties involved in contracting. For example, the state of Virginia enacted legislation to include all charitable choice provisions in Virginia's procurement law. These provisions were included in its technical assistance handbook for faith- and community-based organizations and used as a curriculum for educating over 1,000 representatives from faith- and community-based groups on charitable choice safeguards, such as the FBOs' right to display religious symbols. Virginia also distributed a statement that local agencies under Virginia procurement law¹² must give to all clients informing them of their right to an alternative (nonreligious) provider under charitable choice. Indiana's Family and Social Services Administration implemented a similar practice.

States also communicated the safeguards by including various charitable choice provisions in contracts or requests for proposals (RFP). State and local government contracting entities in Indiana, Virginia, and Texas included information in their TANF RFPs specifically stating that FBOs

¹²Only localities with their own procurement law are not required to distribute this statement.

were eligible to apply for federal funds.¹³ The Indiana Family and Social Services Administration's Indiana Manpower Placement and Comprehensive Training Program and the Texas Department of Human Services included all charitable choice safeguards in their contracts with TANF service providers. Georgia has recently passed legislation to implement charitable choice provisions; however, both Georgia and Washington do not currently include any charitable choice language in their TANF contracts or RFPs. Washington state officials said that after reviewing the charitable choice statutory provisions, they decided that no action was required because they already contracted with FBOs.

Government officials said that in practice, safeguards were most often verbally communicated, many times through technical assistance workshops or bidders' conferences. However, most of the FBOs we interviewed said that the contracting agency had not explained the provisions to them. In addition, few local and FBO officials we interviewed recalled receiving any guidance on the safeguards, informal or otherwise, from state or local officials, respectively.

Incidence of Violations of Safeguard Requirements Is Unknown

In the five states we visited, government officials reported few problems concerning FBO use of federal funds for proselytizing, discrimination against clients, or client requests for alternative (nonreligious) providers; however, the incidence of violations of these safeguard requirements is unknown. FBOs we interviewed did not report any intrusive government behavior that interfered with their ability to retain their religious nature under charitable choice. These FBOs often displayed religious symbols and none said that government officials restricted this ability under charitable choice by asking them to remove religious icons. In Texas, one lawsuit was filed against an FBO for allegedly using public funds to purchase bibles for a charitable choice program, and the case was dismissed in federal court. However, almost all of the government and FBO officials we interviewed said that they had not received any complaints from clients about the religious nature of an FBO.

¹³We selected the TANF program for this analysis because charitable choice provisions have applied to TANF longer than they have any other program, allowing TANF officials more time to implement charitable choice safeguards in contracting documents. Our analysis is based on the contracts and RFPs we obtained from contracting officials we interviewed and, therefore, may not be representative of all the TANF contracts and RFPs in each state.

Officials in the five states we visited also said that few clients had asked for an alternative (nonreligious) provider, one of the charitable choice protections afforded to clients who object to receiving services from a religious organization. However, only two of the five states we visited, Indiana and Virginia, issued written guidance to inform clients that they had this right to an alternative (nonreligious) provider, and these two states only recently issued such guidance. Texas includes such information in its TANF contracts, but requires that the provider communicate this information to the client. Failure to communicate information about this safeguard to clients raises the possibility that some clients who may prefer to receive services from a nonreligious provider may not be aware of their right to do so.

The majority of state and local agencies relied on complaint-based systems to identify violations of the charitable choice safeguard requirements. Agency officials typically monitored financial and programmatic aspects of the services. A few officials said that any “red flags” would show up during regular programmatic monitoring, and that such indications would be the basis for further investigation. Nonetheless, it is not clear whether there are violations of the safeguard requirements that go unreported or undetected because clients and FBOs may not be aware of the safeguard provisions.

FBOs Are Held Accountable for Performance in the Same Way As Non-FBOs, but Comparative Performance Information Is Unavailable

FBOs are held accountable for performance in the same way as other organizations that contract with the government, according to state and local officials in the five states we visited. Most officials said that all contractors are held accountable on the basis of the same standards, such as those contained in the contract language. None of the officials said that FBOs are held to a different standard, either higher or lower, compared to other contractors. Most agencies responsible for monitoring contractors said that they monitored all contracting organizations in the same way, whether faith-based or not. None of the state and local officials we interviewed said that they monitored FBOs differently from other organizations. Monitoring activities included program audits, financial audits, and regular performance reports from FBOs.

Although FBOs are held accountable for performance in the same way as non-FBOs, comparative information on contractor performance is unavailable for several reasons. One reason is that cost-reimbursement contracts, used by many of the agencies in the five states visited, pay contractors on the basis of the allowable costs they incur in providing services, rather than performance outcomes—the results expected to follow from a service. In contrast, performance-based contracts, which

were used by some of the agencies visited, pay contractors on the basis of the degree to which the services performed meet the outcomes set forth in the contract. Examples of such performance outcomes include the percentages of clients that obtain or retain employment for a specified period of time.

However, even when contracts specified expected outcomes, some state and local officials said that comparative information on contractor performance was unavailable. In the five states, specified performance outcomes sometimes varied with each contractor individually, often because contractors either provided different services or the same services to different populations. In Indiana, for example, TANF contractors proposed their performance outcomes as part of the bidding process on the basis of the local agency's needs. While specified performance outcomes sometimes differed on the basis of the services provided and the populations served, none of the state and local officials told us that these performance outcomes varied according to whether the contractor was faith based.

While contractors shared the same specified performance outcomes in a few cases, state and local officials had not compared the performance of FBOs to that of other contractors. Many officials told us that they did not track the performance of FBOs as a group at all. For example, one state-level agency tracked substance abuse treatment outcomes by providers but had not identified which contractors were FBOs.

Most state and local officials that provided their opinion believed that their FBO service providers performed as well as or better than other organizations overall, even though they did not provide data regarding FBO performance. Research efforts are currently under way to provide information on the performance of FBOs in delivering social services. Researchers at Indiana University-Purdue University Indianapolis are conducting a 3-year evaluation comparing the performance of FBOs and non-FBOs in Indiana, Massachusetts, and North Carolina. Researchers expect to complete the study in 2003. In addition, in February 2002, The Pew Charitable Trusts awarded a \$6.3 million grant to the Rockefeller Institute of Government, based at the State University of New York in Albany, to study the capacity and effectiveness of FBOs in providing social services and other issues.

Conclusions

While HHS and Labor have taken steps to increase awareness of funding opportunities for religious and community organizations, state and local government officials and FBO officials continue to differ in their

understanding of charitable choice rules, particularly regarding specific safeguards designed to protect the various parties involved in financial arrangements, including FBOs and clients. In addition, clients are sometimes not being informed about the safeguards that are specifically designed to protect them. This is a problem because government entities generally rely on complaints from clients to enforce such safeguards. When all parties are not fully aware of their rights and responsibilities under charitable choice provisions, violations of these rights may go undetected and unreported.

While HHS officials said that they interpret PRWORA to mean that the agency does not have the authority to issue regulations on charitable choice for TANF programs, HHS does have the authority to issue other forms of guidance to states for TANF programs. Additional guidance to clarify the safeguards and suggest ways in which they can be implemented would promote greater consistency in the way that government agencies meet their responsibilities in implementing charitable choice provisions. Without guidance from HHS, consistency in the interpretation of charitable choice provisions is unlikely. Because the WTW funds were not reauthorized and all funds have been distributed to grantees, the issuance of guidance by Labor to states is no longer needed.

Recommendation for Executive Action

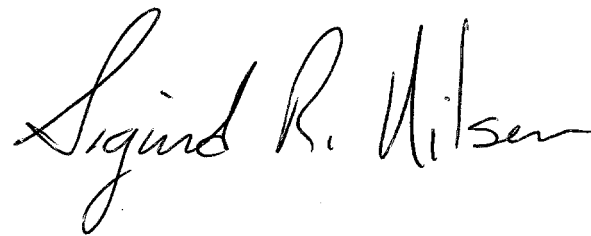
In order to promote greater consistency of interpretation and implementation of charitable choice provisions, we recommend that the Secretary of HHS issue guidance to the appropriate state and local agencies administering TANF, CSBG, and SAPT programs on charitable choice safeguards, including the safeguard prohibiting the use of federal funds for religious worship, instruction, or proselytizing and the safeguard concerning a client's right to an alternative (nonreligious) provider. In particular, this guidance should offer clarification concerning allowable activities that a religious organization may engage in while retaining its religious nature.

Agency Comments

We provided a draft of this report to HHS and Labor for their review. HHS agreed with our recommendation and said that it is in the process of developing and issuing guidance to the appropriate state and local agencies administering these programs. HHS also provided detailed information on how it plans to use the \$30 million Compassion Capital Fund, which is intended to assist FBOs and community-based organizations. HHS's comments are reprinted in appendix II. Labor had no formal comments. HHS and Labor also provided technical comments that we incorporated as appropriate.

As arranged with your offices, unless you publicly announce its contents earlier, we plan no further distribution of this report until 30 days from its issue date. At that time, we will send copies of this report to the Secretary of Health and Human Services, the Secretary of Labor, appropriate congressional committees, and other interested parties. We will also make copies available to others upon request. In addition, the report will be available at no charge on the GAO Web site at <http://www.gao.gov>.

If you or your staffs have any questions about this report, please contact me at (202) 512-7215. Other contacts and staff acknowledgments are listed in appendix III.

A handwritten signature in black ink that reads "Sigurd R. Nilsen". The signature is written in a cursive, flowing style.

Sigurd R. Nilsen
Director, Education, Workforce,
and Income Security Issues

Appendix I: Scope and Methodology

To obtain specific information about how charitable choice has been implemented, we visited 5 states—Georgia, Indiana, Texas, Virginia, and Washington. We selected these states to obtain a range in the levels of both state government activities with regard to faith-based initiatives and contracting with faith-based organizations, as well as geographic dispersion. In addition, we did telephone interviews with faith-based liaisons established in 15 states (these were all of the liaisons that had been established as of September 2001).

To identify what is known about the extent and nature of faith-based organization (FBO) contracting, we compiled information from several sources. We analyzed results from our national survey of Temporary Assistance for Needy Families (TANF) contracting of all 50 states, the District of Columbia, and the 10 counties with the largest federal TANF-funding allocations in each of the 13 states that locally administer their TANF programs. In addition, we interviewed state and local program officials that administer TANF, Welfare-to-Work (WTW), Community Services Block Grant (CSBG), and Substance Abuse Prevention and Treatment (SAPT) funded programs in the states we visited. Finally, we analyzed documents and data provided to us by federal, state, and local officials.

To identify the extent of FBO contracting in the WTW program, we obtained national information from the Department of Labor, which oversees this program.¹ To identify the extent of FBO contracting in the SAPT block grant programs in the 5 states visited, we contacted state officials responsible for these programs to obtain data on certified substance abuse treatment providers eligible to receive federal funds and contracting under this program. To identify the extent of FBO contracting in the CSBG programs in these states, we contacted state officials responsible for CSBG funded programs to obtain data on FBO contracting and subcontracting. To identify the nature of services provided in the four programs, we contacted federal, state and local officials overseeing these programs. In addition, we visited FBOs that contracted with the government and some that did not have contracts. We also reviewed relevant documents related to the contracting process.

¹Labor provided us with a draft copy of its Report to the White House Office of Faith-Based and Community Initiatives on charitable choice implementation, which described the amount of competitive grant funding awarded to FBOs. In addition, we obtained information from state officials about their formula grant disbursements to FBOs.

To obtain information on the implementation of charitable choice, including factors that constrain FBOs in contracting with the government, implementing safeguard provisions, and the performance of FBOs, we met with officials at the Departments of Health and Human Services and Labor in Washington, D.C., that oversee the TANF, WTW, CSBG, and SAPT programs. We conducted telephone interviews with faith-based liaisons in 15 states and on-site interviews with state and local officials in various locations in Georgia, Indiana, Texas, Virginia, and Washington. To obtain the perspective of FBOs, we also interviewed FBO officials that have had contracts with the government under these programs, as well as some that do not have contracts with the government. In addition, we interviewed researchers that have conducted related studies on charitable choice implementation and the relative performance of FBOs. We also reviewed audit reports for the two federal agencies that oversee these programs. Finally, we analyzed documents that we obtained from federal, state, and local officials, including contracts, guidance, and communications regarding charitable choice implementation.

Appendix II: Comments from the Department of Health and Human Services



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of Inspector General

Washington, D.C. 20201

AUG 26 2002

Mr. Sigurd R. Nilsen
Director, Education, Workforce,
and Income Security Issues
United States General
Accounting Office
Washington, D.C. 20548

Dear Mr. Nilsen:

Enclosed are the department's comments on your draft report entitled, "Charitable Choice: Federal Guidance on Statutory Provisions Could Improve Consistency of Implementation." The comments represent the tentative position of the department and are subject to reevaluation when the final version of this report is received.

The department also provided several technical comments directly to your staff.

The department appreciates the opportunity to comment on this draft report before its publication.

Sincerely,

A handwritten signature in cursive script that reads "Janet Rehnquist".

Janet Rehnquist
Inspector General

Enclosure

The Office of Inspector General (OIG) is transmitting the department's response to this draft report in our capacity as the department's designated focal point and coordinator for General Accounting Office reports. The OIG has not conducted an independent assessment of these comments and therefore expresses no opinion on them.

Comments of the Department of Health and Human Services on the General Accounting Office's Draft Report, "Charitable Choice: Federal Guidance on Statutory Provisions Could Improve Consistency of Implementation" (GAO-02-887)

The Department of Health and Human Services appreciates the opportunity to comment on this draft report.

GAO Recommendation for Executive Action

In order to promote greater consistency of interpretation and implementation of charitable choice provisions, we recommend that the Secretary of HHS issue guidance to the appropriate state and local agencies administering TANF, CSBG, and SAPT programs on charitable choice safeguards, including the safeguard prohibiting the use of federal funds for religious worship, instruction, or proselytizing and the safeguard concerning a client's right to an alternative (non-religious) provider. In particular, this guidance should offer clarification concerning allowable activities that a religious organization may engage in while retaining its religious nature.

HHS Response

The Department of Health and Human Services (HHS) agrees with the GAO's recommendation and is in the process of developing and issuing guidance to the appropriate state and local agencies administering Temporary Assistance for Needy Families (TANF), Community Service Block Grant (CSBG), and Substance Abuse and Mental Health Services Administration (SAMHSA)-funded Substance Abuse Services programs on charitable choice provisions. The Administration for Children and Families is updating its guidance to states and grantees, and SAMHSA is in the final stages of developing guidance to states and grantees to implement Charitable Choice laws enacted as part of SAMHSA's fiscal year 2000 reauthorization and appropriation.

The HHS recently began administering the Compassion Capital Fund (CCF), which will also provide substantial guidance and assistance to faith-based organizations (FBOs) and community-based organizations (CBOs) as they provide social services to those in need under charitable choice provisions. The CCF is a \$30 million fund that Congress appropriated to HHS in January 2002 and represents the first federal funds specifically targeted to assist the grassroots organizations that are the focus of the Administration's faith-based and community initiative. The CCF will be used to support four activities: a technical assistance demonstration program, a National Resource Center, research regarding best practices and services of intermediary organizations, and field-initiated research grants.

Under the demonstration program, nearly \$25 million will be awarded to 15-25 "intermediary organizations," which will in turn help smaller organizations operate and manage their programs effectively, access funding from varied sources, develop and train staff, expand the types and reach of social services programs in their communities, and

replicate promising programs. These intermediary organizations will also issue sub-awards directly to qualified FBOs/CBOs to expand or replicate promising programs in targeted areas.

Approximately \$2 million will be used to establish a National Resource Center, which will serve as a national repository and clearinghouse for technical assistance and training resources for FBOs/CBOs. The Center will ensure that intermediary organizations funded under CCF are equipped with the information and training necessary to offer guidance and assistance to FBOs/CBOs.

The CCF also will support research regarding the practices of intermediary organizations and appropriate methods for evaluating their quality and effectiveness. Approximately \$1.6 million will support research on the services and practices of intermediary organizations and the FBOs/CBOs they serve. Approximately \$1 million will be awarded to 5 to 8 organizations to support short-term research projects that will improve the knowledge base of the activities and practices of various types of FBOs/CBOs.

Appendix III: GAO Contacts and Staff Acknowledgments

GAO Contacts

Andrew Sherrill (202) 512-7252
Anna M. Kelley (617) 565-7499

Staff Acknowledgments

In addition to the above contacts, Mary E. Abdella, Richard P. Burkard, Jennifer A. Eichberger, Randall C. Fasnacht, and Nico Sloss made important contributions to this report.

Related GAO Products

Charitable Choice: Overview of Research Findings on Implementation. [GAO-02-337](#). Washington, D.C.: January 18, 2002.

Regulatory Programs: Balancing Federal and State Responsibilities for Standard Setting and Implementation. [GAO-02-495](#). Washington, D.C.: March 20, 2002.

Welfare Reform: Federal Oversight of State and Local Contracting Can Be Strengthened. [GAO-02-661](#). Washington, D.C.: June 11, 2002.

Welfare Reform: States Provide TANF-Funded Services to Many Low-Income Families Who Do Not Receive Cash Assistance. [GAO-02-564](#). Washington, D.C.: April 5, 2002.

Welfare Reform: More Coordinated Federal Effort Could Help States and Localities Move TANF Recipients With Impairments Toward Employment. [GAO-02-37](#). Washington, D.C.: October 31, 2001.

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Drug Abuse: Research Shows Treatment Is Effective, but Benefits May Be Overstated. [GAO/HEHS-98-72](#). Washington, D.C.: March 27, 1998.

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