



GOVERNOR SONNY PERDUE

Faith and Family Services Constitutional Amendment Briefing



“Faith can do miraculous things. Let’s use the power of faith to keep moving toward a New Georgia.”
—Governor Sonny Perdue



GOVERNOR SONNY PERDUE

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GOVERNOR SONNY PERDUE

Contact: Office of Communications (404) 651-7774



Dear Fellow Georgians:

My administration is working to allow Faith and Family social service providers to compete for government funding in order to maintain and improve services for all at-risk Georgians, especially our children. Under the current law, the funding for many of these programs is in jeopardy.

Faith and Family Services organizations play a vital role in our state, and they do so with remarkable compassion. Most often these institutions offer a level of care that state government cannot match, which is the very reason we must sustain funds for these service providers. My proposal would make the First Amendment of the Federal Constitution the standard for providing care in Georgia.



Discrimination against a private, voluntary group merely because of its connection to a religious organization should not be practiced in this state. The Faith and Family Services Amendment will be submitted to the 2004 General Assembly by my administration floor leaders, in the form of a resolution requiring a 2/3 vote in the Georgia House and Senate for passage. The amendment would then appear on the November 2004 ballot and would require a majority vote before becoming effective.

Sonny Perdue

FAQs

Does the Faith and Family Services Constitutional Amendment interfere with the United States Constitution?

No. The U. S. Supreme Court has ruled that the Constitution allows for faith-based providers of human services and that doing so does not interfere with the establishment clause of the First Amendment of the U.S. Constitution. That clause prohibits Congress from making laws to respect an establishment of religion, or prohibiting the free exercise thereof.

Will this allow vouchers?

No. Georgia's Constitution does not prohibit vouchers. This amendment will have no effect on vouchers.

- Even though Arizona has a Blaine Amendment in the constitution, their Supreme Court ruled that vouchers were constitutional as long as they were set up to be tax credits. It would be possible for Georgia to use this approach if vouchers were desired. Even if this were not the case, vouchers would still be constitutional in Georgia as long as they are not used in Parochial Schools.
- Governor Perdue has never proposed introducing vouchers in Georgia. Governor Perdue believes that the focus in Georgia should be on improving our Public School system.
- Governor Perdue's Faith and Family Services Amendment is only about two things. First, the organizations that Georgia contracts with to provide human services should be

the organizations that can provide the best services efficiently. Second, this plan does not ensure faith-based organizations will receive any money from the state; it only prevents faith-based providers from being discriminated against because of their beliefs.

If Georgia's Constitution prohibits the state from contracting with Faith and Family Services organizations, why does the state already have contract with these organizations?

The answer to that question is not clear. It appears this part of the Constitution, like many outdated laws, has been ignored by previous officials. However, many legal scholars agree that Georgia will be very vulnerable to a legal attack until our Constitution is changed.



GOVERNOR SONNY PERDUE



“In order to help the neediest of Georgians we must do more than pray. We must pray and work.”

—Governor Sonny Perdue



STATE OF GEORGIA

OFFICE OF THE GOVERNOR

Sonny Perdue
GOVERNOR

For Immediate Release

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Governor Perdue Proposes Faith and Family Services Constitutional Amendment

Legislation would align US and GA Constitution, allow funding to best providers

ATLANTA, GA – Governor Sonny Perdue announced today that he will submit legislation during the 2004 session of the General Assembly that would alter the controversial Blaine Amendment in Georgia's Constitution. The constitutional change would allow Faith and Family Services social service providers to compete for state funds without facing discrimination.

"Georgia's Constitution often unfairly prohibits the state from funding the best, most dedicated human services providers," Perdue said. "Georgia's neediest families and children deserve our commitment to removing this barrier to finding quality services."

Georgia's Blaine Amendment provides that "[n]o money shall ever be taken from the public treasury, directly or indirectly, in aid of any church, sect, cult, or religious denomination or of any sectarian institution." This presents an even higher barrier to Faith and Family Services initiatives than the First Amendment to the U.S. Constitution.

Governor Perdue proposed adding to the beginning of the Blaine Amendment the following line: "**except as permitted or required by the United States Constitution, as amended.**"

"My proposed amendment will put the Georgia Constitution in step with the U.S. Constitution," Perdue said. "The state should not discriminate against a private, voluntary organization, merely because it is Faith and Family Services."

Governor Perdue's proposal will be submitted by his floor leaders in the form of a resolution. The resolution would require a 2/3 vote in the House and Senate for passage. Upon passage, the amendment would appear on the November 2004 ballot and require a majority vote.

Attached is a fact sheet on the Blaine Amendment and Governor Perdue's proposed change.

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GOVERNOR SONNY PERDUE

Text of proposed Constitutional Amendment

AN AMENDMENT

Proposing an amendment to the Constitution so as to prevent discrimination in the public funding of health, educational, and social services by allowing religious or sectarian organizations to receive public aid, directly or indirectly, for the provision of such services in a manner consistent with the United States Constitution; to provide for the submission for this amendment of ratification or rejection; and for other purposes.

BE IT RESOLVED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article I, Section II of the Constitution is amended by adding the following underlined language so that Paragraph VII reads as follows:

“Paragraph VII. Separation of church and state. Except as permitted or required by the United States Constitution, as amended, no money shall ever be taken from the public treasury, directly or indirectly, in aid of any church, sect, cult, or religious denomination or of any sectarian institution.”

SECTION 2.

The above proposed amendment to the Constitution shall be published and submitted as provided in Article X, Section I, Paragraph II of the Constitution. The ballot submitting the above proposed amendment shall have written or printed thereon the following:

- “() YES Shall the Constitution be amended in a manner consistent with the United State Constitution so as to prevent discrimination in the public funding of
- () NO Health, educational, and social services by allowing religious or sectarian Organizations to receive a public aid, directly or indirectly, for the Provision of such service.

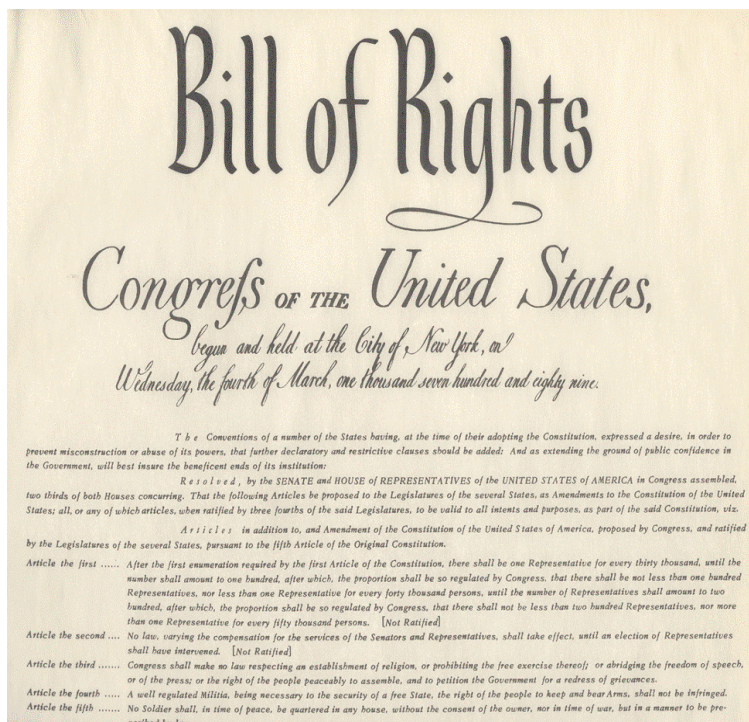
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GOVERNOR SONNY PERDUE

*“Take the first step in Faith. You don’t have to see the whole staircase,
just take the first step.”*

— Martin Luther King, Jr.



*“Congress shall make no law respecting an establishment of religion, or
prohibiting the free exercise thereof; or abridging the freedom of
speech, or of the press; or the right of the people peaceably to assemble,
and to petition the government for a redress of grievances.”*

—First Amendment of the United States Constitution



GOVERNOR SONNY PERDUE

Background information on the Faith and Family Services Amendment

- Since the late nineteenth century, the Georgia Constitution has contained a Blaine Amendment.
- The amendment is named for United States Senator James Blaine of Maine.
- Senator Blaine capitalized on a national wave of anti-Roman Catholic bigotry to propose, and very nearly passed, an amendment to the United States Constitution in the 1850's prohibiting all forms of Faith and Family Services initiatives.
- The current iteration of Georgia's Blaine Amendment provides that "[n]o money shall ever be taken from the public treasury, directly or indirectly, in aid of any church, sect, cult, or religious denomination or of any sectarian institution." Ga. Const. art. I, § II, ¶ VII.
- Georgia's Blaine Amendment presents an even higher barrier to Faith and Family Services initiatives than the First Amendment to the U.S. Constitution.
- Georgia Attorneys General and the courts have interpreted Georgia's Blaine Amendment to prohibit the following Faith and Family Services initiatives. In each case, the initiative likely would have been permissible under the First Amendment:

The provision of "Reading Challenge" grants to sectarian schools. 2000 Ga. Op. Att'y Gen. No. 00-5 (May 18, 2000).

A contract between the City of La Grange and the Salvation Army to "handle charitable cases for the city." *Bennett v. City of La Grange*, 153 Ga. 428, 112 S.E. 482 (1922).

"a county contracting with the Y.M.C.A. to provide recreational facilities and programs for the children of a particular county . . ." [T]he Y.M.C.A. would be an inappropriate party to such a contract . . . since the Y.M.C.A. is probably a sectarian institution . . ." 1969 Ga. Op. Att'y Gen. No. 69-136 (Mar. 25, 1969).

- There have been a series of U.S. Supreme Court decisions stating that the U.S. Constitution allows for Faith and Family Services providers of human services.
- The text of what Governor Perdue proposes to add to the Georgia Constitution is very simple: "***except as permitted or required by the United States Constitution, as amended.***"
- This revision puts the Georgia Constitution in step with the U.S. Constitution.
- This revision would not interfere with separation of church and state because the U.S. Supreme Court has ruled that the U.S. Constitution allows for Faith and Family Services providers of human services.
- This revision would allow the state to fund the best human services providers.

- As required by the First Amendment to the U.S. Constitution, taxpayer money will be used for secular purposes and not for religious purposes and activities. All state contracts can spell this out clearly.
- Revising the Blaine Amendment eliminates the threats of expensive lawsuits and removes the barriers to finding quality services for those in need.
- Revising the Blaine Amendment will expand the resource capacity upon which the state can turn to for social services.
- The HOPE Scholarship is presently awarded to students for use in pursuing any degree (i.e., religious or secular) at private, sectarian colleges and universities. Under the Georgia Blaine Amendment, this is an unlawful practice. Under the First Amendment to the U.S. Constitution, it is a lawful practice (*Zelman v. Simmons-Harris*).
- If a Faith and Family Services Amendment targeting only social service providers is passed by the Georgia General Assembly and is adopted in 2004, and the U.S. Supreme Court in the *Locke v. Davey* case (to be decided in late spring or early summer 2004) decides that states providing HOPE-type scholarships cannot discriminate against students who desire to use their scholarships to pursue religious degrees, then the Constitution of Georgia would have to be amended again in 2005 to permit the funding of HOPE Scholarships for use at private, sectarian college and universities.
- Presently, Georgia parents can enroll their children in a pre-K program offered at a faith-based education provider that agrees to certain restrictions on the use of religious symbols and program content. Under the Georgia Blaine Amendment, the use of pre-K program vouchers at any faith-based education provider is prohibited, regardless of any limitations on the use of religious symbols and program content. Under the First Amendment, parents can use government-issued vouchers for education at any private, public, or religious school (*Zelman v. Simmons-Harris*).
- Presently, religious youth organizations are granted after-school access to public school classrooms. These classrooms are cleaned, insured, and furnished with public money. Under the Blaine Amendment, this is an unlawful practice. Under the First Amendment to the U.S. Constitution, it is a lawful practice (*Good News Club v. Milford Central School*).
- The Georgia Blaine Amendment prohibits the indirect payment of public funds to sectarian organizations. Webster's defines the term "indirect" to mean "deviating from a direct line or course." Presently, the Georgia Department of Education is responsible for distributing millions of dollars allocated to Georgia by the federal government, including distributions to private, religious schools. Under the Blaine Amendment, this is an unlawful practice. Under the First Amendment to the U.S. Constitution, it is a permissible practice (*Mitchell v. Helms*).



GOVERNOR SONNY PERDUE

Letter in Support of Faith and Family Services Amendment

Dear Citizens of the State of Georgia:

I have good news and bad news. The bad news is, the state of Georgia is facing another looming crisis in adequately serving the neediest of its citizens. The good news is, there is a practical and effective solution on the way. The immediate challenge is to make people aware of the situation and to unite in doing what's right for those in need.

Business folks, especially entrepreneurs, tend to be pragmatic. Governor Sonny Perdue is one of those folks. He has the practical idea that the human needs of the most disadvantaged Georgians need to be met in the most effective manner possible. If the best provider in a given situation happens to be a nongovernmental entity, then that human service ought to be provided by the nongovernmental entity. In fact, for some time our state government has often looked to private organizations to provide human services to the neediest Georgians. For example, through competitive contracting procedures, the state's Department of Human Resources has determined that the following human needs are best met by private providers:

1. Refugee resettlement and case management services-provided by Jewish Family and Career Services.
2. Shelter and services for women and children who are victims of domestic violence-provided by YWCA of Cobb County.
3. Mental health services for adults-provided by Saint Joseph's Mercy Care Services.
4. A hotline that provides information to those who inquire about becoming foster or adoptive parents of children in the state's care-provided by Bethany Christian Services of Georgia.

Many readers will notice that each of the private entities in the above list are either Faith and Family Services organizations or have Faith and Family Services origins. I only chose to list a handful of state contracts that go to Faith and Family Services organizations. There are many more.

Despite the fact that the state of Georgia awards competitive contracts to Faith and Family Services organizations, there is a serious question of whether this violates our state Constitution, which says that "no money shall ever be taken from the public treasury, directly or indirectly, in aid of any church, sect, cult, or religious denomination or of any sectarian institution." Ga Const. art. I, § II, ¶ VII. As written, this provision-known as the Blaine Amendment-is far more explicit in its prohibition against church involvement with government programs than the First Amendment to the United States Constitution, which only prohibits the "establishment of religion." Moreover, Georgia's Attorney General has said in an official opinion that this provision "was intended to have a stronger application" than the First Amendment to the United States Constitution. 1960-61 Ga. Op. Att'y Gen. 349, 351 (Apr. 20, 1960). Therefore, Georgia's Blaine Amendment presents an even higher barrier to Faith and Family Services initiatives than the First Amendment to the U.S. Constitution.

In the interest of providing the most effective human services to children without permanent homes, battered women and children, the mentally - disable, refugees and others with great human needs, Governor Perdue has called on the legislature and the people of Georgia to effectively repeal the Blaine

Amendment. All that our Governor asks is that 12 words be added to the front of our Blaine Amendment language, "Except as permitted or required by the United States Constitution, as amended." Thus, no state taxpayer money could be given to a sectarian institution unless permitted or required by the U.S. Constitution.

In years past, because of Georgia's Blaine Amendment, certain contracts to Faith and Family Services providers of vital human services have not been allowed. In 1922 a Georgia court disallowed the Salvation Army from "handling charitable cases" for the city of LaGrange. In 1969, an official opinion from the state's Attorney General said that it would be "inappropriate" for the Y.M.C.A. to provide recreational services for children "since the Y.M.C.A. is probably a sectarian institution." Both of these cases would likely be permissible under the First Amendment.

I believe that if the First Amendment to the U.S. Constitution is good enough for America, then it is good enough for Georgia. We need to bring Georgia's Constitution in line with the U.S. Constitution.

It is recognized that Faith and Family Services organizations and the state of Georgia share many similar concerns in meeting the needs of disadvantaged and needy citizens. Any prohibition of Faith and Family Services services in Georgia will have a dramatic impact on all Georgians. The state's leverage of the fiscal resources of our Faith and Family Services communities will be severely limited. Georgia will lose the altruism that has its roots in the faith community's mission of service.

Changing the Georgia Constitution will lift the cloud of doubt allowing for a partnership in meeting these needs. It will remove threats of needless lawsuits and barriers to quality services being offered. It will allow all potential providers of human services, including Faith and Family Services providers, to compete on an equal basis to provide necessary services to those in need, including innocent and defenseless children. Faith based and private institutions can provide excellent services with the help of state dollars combined many times with charitable donations through their religious affiliation. This provides a much more efficient use of resources than the state having to bear the entire cost.

In bad economic times as well as in good ones, we need to have the greatest amount of human needs met for our taxpayer dollars. Partnering with the faith community is a way to leverage millions upon millions of dollars in private support to best provide a wide array of needed services.

Failure to change the Blaine Amendment could result in catastrophic consequences to the current social services system in our state if the Georgia Constitution is interpreted to disallow the state to use Faith and Family Services organizations. A strict interpretation of the Blaine Amendment in its present form could lead to the tragic loss of vital services to 10,000's of Georgians therefore placing a greater burden on the state government to provide such services. This would mean that the taxpayer would realize an increase in his/her taxes. This underscores the great importance of the task ahead.

This is not a partisan issue. So yes, there is good news if you will join with us to get this passed through the legislature and in a state-wide referendum.

Dr. Rick Lanford
Vice President for Development and Public Relations
Methodist Home For Children & Youth



GOVERNOR SONNY PERDUE

Op-Ed in support of Governor Perdue's Faith and Family Services Package

State Funding For Faith-Based Groups Supported

By PRISCILLA GREER, Staff Writer

The Georgia Bulletin

December 4, 2003

ATLANTA—Catholic Social Services' executive director Sandra Hollett is one nonprofit leader who supports the removal of a Georgia amendment prohibiting state funding to faith-based, social service organizations.

Its removal would enable CSS to compete freely for state grants, without risk of litigation, and expand services to meet some of the urgent needs of the state's burgeoning Hispanic community.

That would benefit the whole state, as CSS serves some 40,000 of Georgia's most vulnerable and needy residents each year, regardless of religious affiliation and without proselytism. Nearly half of those served are Hispanic.

Another area in which CSS could expand with state government aid is in providing support services to at-risk young families.

"There are a couple of areas of growth for us; (one is) parenting support for young families at risk," Hollett said. "It's the kids ending up in the foster care system, which is a big problem for our state. We have a particular strength in that area, especially with the Latino population. We're out there in their communities."

"We all recognize how outdated the amendment is. We would just like to change it and go for a level playing field between faith-based organizations and other nonprofits ... to maximize the impact we can have on thousands of people who need us," she said.

With the support of Archbishop John F. Donoghue, Hollett and attorney Frank Mulcahy, who represents the Georgia Catholic Conference in the state legislature, are advocating for Gov. Sonny Perdue's initiative to revise the Blaine Amendment to the Georgia Constitution, which provides that "no money shall ever be taken from the public treasury, directly or indirectly, in aid of any church, sect, cult, or religious denomination or of any sectarian institution."

The archbishop is scheduled to meet with the governor on legislative issues in December, with this and pro-life issues being priorities.

Gov. Perdue plans to submit legislation during the 2004 session of the Georgia General Assembly that would add to the beginning of the Blaine Amendment, "except as permitted or required by the United States Constitution, as amended."

The U.S. Supreme Court has ruled that the First Amendment of the U.S. Constitution, which forbids establishment of religion or discrimination on the basis of it, allows for allocation of public funds to faith-based providers of human services, and this amendment would put the Georgia Constitution in step with the U.S. Constitution. The issue was brought to the forefront in Georgia with a lawsuit filed last year against the United Methodist Children's Home challenging a state's right to fund social services delivered by a religious organization. Several existing state contracts that go to faith-based providers of human services likely violate Georgia's Constitution, making them at risk for lawsuits, yet are in compliance with the U.S. Constitution. Blaine has prohibited contracts with organizations like the Salvation Army and YMCA.

"We want to be able to qualify (for state funds) on the same basis as any other nonprofit," said Mulcahy. "We are speaking of religious freedom, be it for us or any other religion."

Hollett noted the good sense in empowering the nonprofits providing the highest quality of social services to better meet societal need—and challenged those opposing the proposed amendment to come up with a better solution.

"If the need in the greater community increases every day and they're not being met by our state government, all the nonprofits in Atlanta and all the churches in Atlanta, this is one way we can leverage limited resources to better meet the needs of the people who are pretty desperate," she said.

Gov. Perdue held a rally announcing his pre-filing of legislation for the Faith and Family Services Amendment with Hollett and other representatives of organizations including Jewish and Christian faith-based social services on the steps of the Capitol on Nov. 25. Among the speakers were Jack Williams, law professor at Georgia State University and president of the board of trustees of Torah Day School of Atlanta, who called the governor's approach a sensible one.

"The governor's proposal maintains that delicate and elegant balance between religious freedom, on the one hand, and excessive entanglement between religion and the state, on the other, as embodied in the First Amendment to the U.S. Constitution," he said. "The governor's proposal levels the playing field and invites effective religious organizations to help solve Georgia's most pressing problems."

Gov. Perdue spoke of the essential role faith-based organizations play in meeting human needs. "Government alone cannot meet all the human needs of our citizens. Our state government relies on faith-based organizations like yours to deliver critical family and social services ... The needs are too many and the needy too numerous," he said.

Gov. Perdue referenced the history of the amendment, which was adopted in Georgia during a wave of anti-Catholic bigotry over a century ago. It began with Sen. James Blaine of Maine, who was speaker of the U.S. House of Representatives in 1875 and who proposed a national constitutional amendment which would have made unconstitutional the appropriation of state or federal funds to support religious schools, aimed directly at the Catholic Church and parochial schools. In the mid-19th century Catholics were increasingly concerned about public schools, which were in effect nondenominational Protestant schools, teaching Protestant theology and employing readings of the King James Bible. They objected and sought public assistance for

parochial schools. While the national initiative failed, many states adopted Blaine-like amendments, and 37 are still in effect today.

The governor said that in several past cases state contracts with faith-based providers of human services have been invalidated by the courts because of the provision.

“The Faith and Family Services Amendment will allow the state to fund the best human services providers. The Faith and Family Services Amendment will affirm that the state should not discriminate against a private, voluntary organization, merely because it is faith-based. And it will keep in place our social services system in which faith-based organizations can provide those vital human services that our citizens rely on.”

To pass it will requires a two-thirds majority of the state House and Senate, and then a majority vote in a ballot referendum next fall.

Charles Douglas, an attorney and financial advisor with Strategic Stewardship, noted later how the Constitution “requires neutrality and equal opportunity. Simply put, the faith-based movement not only is permitted by the United States Constitution, it is required by it. Amending Blaine is good for Georgians because it fosters increased competition between all groups, sectarian and religious, for government dollars. Increased competition in a free marketplace system ultimately benefits the consumer and those in need of social services.”

In an interview with the Macon Telegraph, Larry Freels, director of the Hephzibah Children’s Home, expressed fear that because his home is church-owned it may soon be banned from receiving state money, which makes up about 60 percent of its budget. About half of the 14,000 children under state custody are cared for by faith-based groups, he said. Freels acknowledged that his home takes children to churches but said it doesn’t try to convert them.

“Yes, we take them to churches, but you don’t have to believe certain things to stay with us,” he said.

Currently the state can contract with religious groups for social services, as long as the religious organization sets up a separate nonprofit entity to receive state money. But depending on the interpretation of “indirect aid,” various religiously affiliated organizations may be put at risk. CSS has received federal aid that has passed through state government.

The proposed amendment, as required by the First Amendment, would only allow for taxpayer money to be used for secular purposes and not for religious purposes, which would be specifically stated in state contracts. Perdue has said that his proposed amendment is not a method to begin a voucher system.

Assisting the governor in drafting the legislation is Jim Kelly, president of the Solidarity Center for Law and Justice, a religious liberty law firm founded by him and Frank Hanna III. The two men attended law school together at the University of Georgia and “share a passion for Catholic philanthropy and religious freedom,” Kelly said.

He explained that the Constitution permits government grants to be made directly to a faith-based organization as long as the program does not define its recipients by reference to religion; the aid is allocated on the basis of neutral, secular criteria that neither favor nor disfavor religion;

is available to both the secular and religious on a nondiscriminatory basis; and is not used contrary to its purpose in a manner that has the effect of advancing religion. “The U.S. Constitution does not require a complete separation of church and state. As long as the state does not establish a religion by funding faith-based social service providers to the exclusion of all other providers, a state may support faith-based organizations.”

Kelly, who said he’s available to speak with churches on the issue, added that the Supreme Court has ruled that it is also constitutional to give public funds to a faith-based organization with a clear religious mission without requiring it to dilute or excise the religious dimension of its work as long as it receives the grant money indirectly as a result of the private, independent choices of the people benefiting from the state aid (i.e., a drug addict choosing to use his voucher at a faith-based rehabilitation facility offering substance abuse counseling religious in nature).

Regarding direct aid, in the case of *Mitchell v. Helms*, the Supreme Court held that parochial schools with their clear religious mission could be provided direct government aid for the purchase of instructional equipment and textbooks as is neutrally available to public schools, a ruling which Kelly explained would also permit a program such as a homeless shelter with religious activities to receive a direct grant for the purchase of things like cots or textbooks for reading instruction. “Even if such direct grants are made, the recipient faith-based organization can maintain its religious mission and practices. If, however, a faith-based organization subsequently shows a pattern of using the direct grants for religious purposes rather than the designated secular purposes, there is a risk of sanctions.”

The Faith and Family Services Amendment would also permit the legislature to enact subsequent legislation relating to the public funding of health and social services as well as education, such as providing for school vouchers, but further legislation would have to be drafted, debated and passed. But Gov. Perdue’s amendment would not suddenly initiate state funding of church-based charities since that already happens. And the Blaine Amendment does not deter government from issuing vouchers for secular private schools and doubtfully would “create a rush to fund non-secular ones,” Kelly said.

The voucher issue is one concern of Maggie Garrett, a staff attorney of the American Civil Liberties Union and the Georgia Coalition to Protect Georgia’s Bill of Rights, who sees the proposal as a backdoor attempt to implement taxpayer-funded vouchers for private religious schools. She and other coalition members also believe that religion has thrived in Georgia precisely because the government has been prohibited from endorsing or burdening religious practice by funding worship, proselytizing or discrimination, and opposes amending Blaine to preserve religious freedom, protect public schools and prevent government discrimination. “They do great things, but the government shouldn’t be funding them. In addition, along with government money comes government oversight and government meddling. That’s a big problem.”

She noted how even if funds go to a group for non-religious purposes, they could allow more of other funds to go to proselytism and the significance of how religious groups providing social services are already able to get state money by establishing a separate organization. “Just because you’re religiously motivated doesn’t mean you can’t get money. This issue is do you help people on the basis of religion? Is religion intertwined in what you’re doing? It claims that you can’t proselytize with this money, but in the programs where it’s so intertwined how can we be assured that it can’t happen? And if the purpose isn’t to allow money to go for these things,

the Constitution is fine just the way it is because we can already do that,” she said. With social service providers that proselytize, “they can say we’re not violating any rules because we’re not using the money for proselytizing, we’re using the money for chairs, but really the program is proselytizing so it’s a lot more complicated than their nice little sound bite.”

Kelly said that as the Georgia amendment is, if federal funds for faith-based organizations are first granted to the state for allocation it could then be considered unlawful indirect payments. He believes the Faith and Family Services Amendment is likely to pass, as “legislators will be hard-pressed to reject an amendment to the Constitution of Georgia that will enable faith-based social service providers in their respective districts to continue to effectively provide service to those who are most at risk in our state.”

It will be more likely to pass, he continued, if the court rules that the First Amendment prohibits discrimination under the Blaine Amendment in the case argued Dec. 2 and to be decided in spring 2004 of *Locke v. Davey*. This case raises the issue of whether the State of Washington can rely on its Blaine Amendment to deprive a theology major of a state scholarship made available to all other majors at colleges and universities in Washington. “In essence, the court will be deciding whether states can enforce Blaine Amendment restrictions on the public funding of religious activities that are more onerous than those permitted under the more flexible First Amendment to the U.S. Constitution.”

Mulcahy noted the irony in the fact that the Catholic Church’s Gospel mandate to serve the oppressed without discrimination would disqualify it from competing for government grants. “Serving our brothers and sisters is what our faith calls us to do... We do that by serving in hospitals, social ministries, in parishes, in Catholic Social Services and educational institutions, and so in fact we’re being discriminated against in our faith.”

Adding to that, Hollett commented on the faith identity at CSS and its expression through service, always in line with Catholic values. “We provide services because we are Catholic, because it’s our mission. We have a 50-year history of providing services regardless of their belief because of a nonjudgmental, non-proselytizing approach. We are a professional service organization, and we recognize we need to maintain boundaries about certain issues,” she said. “At the same time you will have pictures of Jesus at CSS and other inspirational (elements). We are Catholic by nature but that does not affect our services to people of other faiths ... Given the diversity of the population we serve, I think that speaks for itself.”

Sen. Blaine apparently didn’t have as much lasting influence in his own state, as Hollett, former director of operations of Catholic Charities Maine—which during her tenure had the only refugee resettlement program in the state—said that its budget was 95 percent through federal and state contracts.

DHR Contracts with Faith-Based Organizations

<u>CONTRACT</u>	<u>NAME</u>	<u>BEG DATE</u>	<u>END DATE</u>	<u>AMOUNT</u>
93-421046	CHRISTIAN EDUCATION CENTER, INC. 1050 ELEPHANT TRAIL GAINESVILLE, GEORGIA 30501-3016	7/10/2003	6/30/2004	\$104,301.00
93-422044	COVENANT COMMUNITY, INC. 623 SPRING STREET, N.W. ATLANTA, GEORGIA 30308-1907	7/1/2003	6/30/2004	\$158,246.00
93-426018	GEORGIA BAPTIST DEVELOPMENTAL DISABILITIES MINISTRIES, INC. 2558 HIGHWAY 120 POST OFFICE BOX 2878 DULUTH, GEORGIA 30096-0049	7/1/2003	6/30/2004	\$10,000.00
93-426054	GREATER PLEASANT TEMPLE OUTREACH COMMUNITY SERVICES, INC. 309 CHERRY STREET VALDOSTA, GEORGIA 31601-5392	8/15/2003	6/30/2004	\$15,000.00
93-426017	METHODIST HOME OF THE SOUTH GEORGIA CONFERENCE, THE 304 PIERCE AVENUE POST OFFICE BOX 2525 MACON, GEORGIA 31204-2422	7/1/2003	6/30/2004	\$92,780.00
93-422066	SAINT JOSEPH'S MERCY CARE SERVICES, INC. 424 DECATUR STREET, S.E. ATLANTA, GEORGIA 30312-1848	7/1/2003	6/30/2004	\$814,213.00

93-424012	SAVE OUR KIDS, INC. OF WILCOX COUNTY EVERGREEN BAPTIST CHURCH 427 DYKES AVENUE ROCHELLE, GEORGIA 31079-1645	7/ 1/2003	6/30/2004	\$20,810.00
93-423033	ST. FRANCIS HOSPITAL, INC. 2122 MANCHESTER EXPRESSWAY POST OFFICE BOX 7000 COLUMBUS, GEORGIA 31904-6878	7/15/2003	6/30/2004	\$13,000.00
93-45163	ANTIOCH URBAN MINISTRIES, INC. D/B/A MADISON HOUSE 540 KENNEDY STREET, N.W. ATLANTA, GEORGIA 30318-7034	7/ 1/2003	6/30/2004	\$237,542.00
93-45294	DODD-STERLING UNITED METHODIST CHURCH, INC. 3272 BROWNS MILL ROAD, S.E. ATLANTA, GEORGIA 30354-2860	7/ 1/2003	6/30/2004	\$50,000.00
93-45290	HOLY TRINITY OUTREACH CENTER, INC. 2133 BEECHER ROAD ATLANTA, GEORGIA 30311-2507	7/ 1/2003	6/30/2004	\$50,000.00
93-45286	CHRISTIAN LEAGUE FOR BATTERED WOMEN, INC. POST OFFICE BOX 1383 CARTERSVILLE, GEORGIA 30120-1383	7/ 1/2003	6/30/2004	\$171,107.00
93-45483	SALVATION ARMY, A GEORGIA CORPORATION, THE POST OFFICE BOX 2408 WARNER ROBINS, GEORGIA 31099-2408	7/ 1/2003	6/30/2004	\$206,426.00
93-45587	YOUNG MEN'S CHRISTIAN ASSOCIATION OF MOULTRIE, GEORGIA, INC. 601- 26TH AVENUE, S.E. MOULTRIE, GEORGIA 31768-6758	10/ 1/2003	9/30/2004	\$61,555.00

93-45257	YOUNG WOMEN'S CHRISTIAN ASSOCIATION OF NORTHWEST GEORGIA, INC. 48 HENDERSON STREET MARIETTA, GEORGIA 30064-3208	7/ 1/2003	6/30/2004	\$231,221.00
93-45591	FAITH CHRISTIAN FAMILY CHURCH, INC. 2555 COBB PARKWAY KENNESAW, GEORGIA 30152-3466	10/ 1/2003	9/30/2004	\$70,000.00
93-45247	BETHANY CHRISTIAN SERVICES OF GEORGIA, INC. 901 EASTERN AVENUE, N.E. GRAND RAPIDS, MICHIGAN 49503-0294	7/ 1/2003	6/30/2004	\$205,600.00
93-45378	BETHANY CHRISTIAN SERVICES OF GEORGIA, INC. 901 EASTERN AVENUE, N.E. GRAND RAPIDS, MICHIGAN 49503-0294	8/ 1/2003	6/30/2004	\$508,600.00



GOVERNOR SONNY PERDUE

A Survey of Government-Funded Faith-Based Programs in 15 States

It is time to act in order to ensure the survival of Faith and Family Service programs. You do not have to wait for your toes to get wet before you jump out of a sinking ship.

-- Governor Sonny Perdue

EXECUTIVE SUMMARY

Faithful

A Survey of Government-Funded Faith-Based Programs in 15 States

Collaborations

John C. Green

Director, Bliss Institute, University of Akron

Amy L. Sherman

Senior Fellow, Hudson Institute

President Bush's "faith-based initiative," which rests in part on the claim that public dollars ought to be able to flow to robustly religious organizations providing effective assistance to the poor, has engendered spirited debate. For many, the topic raises fundamental questions about how best to serve low-income citizens, religious liberty and the separation of church and state, and the proper roles of the public and private sectors in addressing social problems.

Government funding of religious social service providers has a long history, especially at the state and local levels. But the "charitable choice" guidelines, enacted as part of the landmark 1996 federal welfare reforms, have created a new, more faith-friendly climate for collaboration. These new guidelines were crafted to address two specific problems: discrimination against some faith-based organizations (FBOs) that desired to compete for public funding of their social service programs, and threats to the religious character of FBOs by the "strings" attached to some government funds.

Charitable choice creates a level playing field for FBOs, including houses of worship, to compete for public funding by insisting that government agencies not disqualify such groups from competition simply because they are religious. Additionally, the guidelines grant faith-based contractors¹ specific rights (e.g., to retain control of their mission and governing board; maintain a religious atmosphere in their facilities; and select staff in accordance with their faith). FBOs must not, however, use public funds for purposes of "sectarian worship, instruction, or proselytization."² Simultaneously, charitable choice safeguards clients' civil liberties. If a client objects to receiving services from an FBO, government must provide an alternative.

This report is the second in a two-part series published by the Hudson Institute's Faith in Communities initiative to shed light on the question of government-faith community collaboration in providing social services among the poor. The first, *Collaborations Catalogue: A Report on Charitable Choice Implementation in 15 States*, published spring 2002, sought to identify *who* was contracting with government under charitable choice, *where* such partnerships were forming, and *what* services were being offered. This report, based on a formal survey of nearly 400 faith-based contractors, explores more analytically *how* these new collaborations are faring.³

Several key issues are at the heart of the controversy over charitable choice. Will FBOs that take government funds compromise their religious character? Will FBOs adequately protect clients' civil liberties? Can FBOs find ways to navigate the charitable choice guidelines, remaining true to their faith and faithful to the law? Will religious



groups lose their prophetic voice if they receive money from the state? Will services to clients suffer as FBOs invest time managing government “red tape”? In short, will such government-faith community collaborations actually work?

Much of the debate on these queries has been based on opinion, conjecture, and anecdote rather than hard data. This report seeks to remedy this lacunae with information “straight from the horse’s mouth”—in-depth interviews with a wide variety of leaders of faith-based organizations engaged in government contracting under charitable choice. Our findings offer surprising information on who is taking advantage of charitable choice; highlight the positive impact of government-faith collaboration on extending care for the poor; show that FBOs are making a concerted effort to comply with charitable choice’s requirements; and indicate that faith-based contractors are, overwhelmingly, satisfied with their relationship with government. Overall, the survey dispels many of the critics’ fears about charitable choice, but also indicates a few areas where improvement is clearly warranted.

The Survey

In the spring of 2002, the Survey Research Center at the University of Akron surveyed 587 leaders of FBOs with government contracts under federal programs regulated by charitable choice.⁴ This list included all of the organizations with such contracts in 15 states derived from the *Collaborations Catalogue*. (The fifteen states under study were: Arkansas, California, Colorado, Florida, Illinois, Indiana, Massachusetts, Michigan, Mississippi, New York, Ohio, Oklahoma, Texas, Virginia, and Wisconsin.) 389 individuals, or two-thirds of the original list of contacts, were successfully interviewed.⁵

Who is Collaborating with Government?

Seventy-eight percent of the contractors were faith-based nonprofits, 22 percent were congregations. As indicated in Table 1, the contractors were religiously diverse. Two findings stand out. First, overall, evangelical Protestants were the single largest group active in contracting, at 42 percent of the total.⁶ Historically black denominations and mainline Protestants composed one-sixth of the total, ecumenical organizations a little more than one-sixth, and Catholics and Jews almost one-quarter of the total. Second, more than one-third of all the congregations contracting were composed principally of African-American members, and nearly one-fifth (18 percent) were predominantly Hispanic, Asian, Native American, or ethnically mixed churches. Less than one-half of the congregations were predominantly white. Thus, minority churches were more active in government contracting than were white congregations. Most congregations contracting with government were small to medium-sized, though 25 percent had

memberships over 500. Similarly, more small and mid-sized nonprofits (those employing fewer than 50 staff persons) than large ones were engaged in government contracting.

Table 1: Organizational Characteristics of Faith-Based Contractors

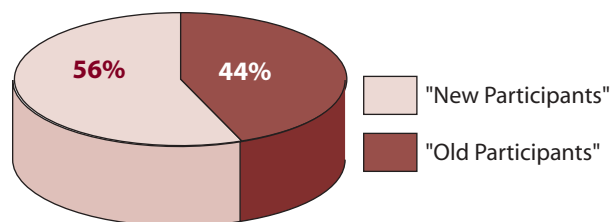
Type of Group	All	Nonprofits	Congregations
	100%	78%	22%
Religious affiliation			
Evangelical Protestant	21%	16%	39%
Nondenominational Prot.	16%	14%	24%
Salvation Army	8%	11%	—
Mainline Protestant	14%	10%	32%
Ecumenical	17%	20%	3%
Catholic	22%	27%	2%
Jewish	2%	3%	0%
Annual Budget			
Less than \$100,000	14%	12%	20%
\$100,000 to \$249,999	20%	14%	41%
\$250,000 to \$499,999	16%	15%	20%
\$500,000 to \$999,999	14%	16%	11%
\$1,000,000 to \$4,999,999	22%	25%	8%
Over \$5,000,000	15%	19%	0%
Number of Members			
Less than 100			13%
101 to 250			31%
251 to 500			31%
501 to 1000			16%
Over 1000			9%
Race, ethnicity of members			
White			46%
Black			36%
Other, mixed			18%

Source: 2002 Hudson Institute/Bliss Institute Fifteen-State Survey of Faith-Based Contractors (N=389)

Importantly, in the fifteen states we examined, “new” participants—FBOs that have only begun formal collaboration with government since 1996, when charitable choice was passed—outnumber “old” ones with a longer history of contracting with the state (see Figure 1). Overall, 56 percent of the contractors were new participants (contracting only since 1996) while 44 percent had experience in contracting prior to 1996. Roughly 20 percent of the FBOs were engaged in their first contracting experience ever (and for congregations, over half were).

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Figure 1: Experience with Government Contracting

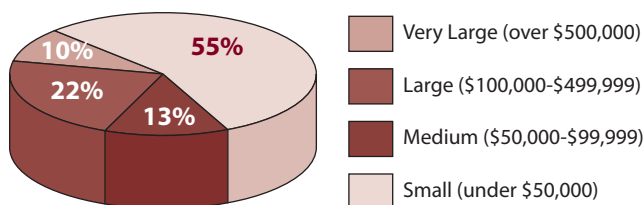


Note: "New participants" are those with contracting experience only after 1996 (i.e., after charitable choice).

Source: 2002 Hudson Institute/Bliss Institute Fifteen-State Survey of Faith-Based Contractors (N=389)

Most of the FBOs held small contracts (under \$50,000), though 10 percent held contracts exceeding \$500,000 (see Figure 2). Mixed funding was most common; that is, approximately 80 percent of the FBOs held contracts that paid for less than the total cost of the program. Though some critics worry that FBOs might pursue government funding for selfish gain (i.e., primarily to increase their organization's resources rather than primarily to offer services), in fact many FBOs are in effect subsidizing the government's anti-poverty efforts.

Figure 2: Size of Contracts



Source: 2002 Hudson Institute/Bliss Institute Fifteen-State Survey of Faith-Based Contractors (N=389)

Both the size of the organization and the contract amount are related to the number of clients served by the organization. Overall, a little more than one-third of the groups served 100 or fewer clients in a year; one-fifth served 101 to 500 clients; one-eighth served 501 to 1,500 clients, about one-sixth assisted 1,501 to 5,000 clients, and another one-sixth over 5,000 clients.

What Impact has Faith-Based Contracting had on Client Services?

Government support has had a substantial impact on the social service activities of the faith-based contractors surveyed. As indicated in Table 2, overall, two-thirds of the respondents claimed that the government-funded contract allowed them to create a new program. Three-quarters noted that it allowed them to expand an existing program, often one not previously supported by public funds. Almost 90 percent of the organizations claimed the contract had allowed them to serve more clients, and 65 percent reported that government dollars had allowed for the addition of a new component to an existing program.

Table 2: Impact of Government Contract(s) on Programs

Contract allowed for:	
A new program	68%
An expanded program	76%
Service to more clients	87%
A new component	65%

Source: 2002 Hudson Institute/Bliss Institute Fifteen-State Survey of Faith-Based Contractors (N=389)

How's It Going?

Clearly, government contracts had a major impact on the level and type of programming offered to disadvantaged citizens by these organizations. But how are the FBOs themselves faring in their relationship with government? We probed this issue through several questions.

Overall, nearly all the faith-based contractors reported that their experience with government was positive (nearly 50 percent said "very" positive). Ninety-two percent indicated that they would pursue a government contract in the future.

We asked respondents to comment on three specific issues where problems could arise: intrusive monitoring by government officials; difficulty in applying for funding; and burdensomeness of reporting requirements. In general, the faith-based contractors did not see government officials as intrusive: more than three-fifths claimed there had been "very little intrusion" and about one-third reported only "some intrusion." The respondents also reported little difficulty in applying for contracts. More than one-half claimed "very little difficulty" and better than

one-third just “some difficulty.” New participants, however, did have more trouble than old participants. Ten percent of new participants encountered “considerable” or “great” difficulty when applying for a contract. Only four percent of old participants responded similarly.

While most of the faith-based contractors expressed strong satisfaction in their relationship with government, a minority expressed some dissatisfaction. Between seven and eight percent of the cases reported some kind of negative experience (e.g., they gave government a low overall evaluation, complained about the level of intrusiveness or the difficulty of applying for the funds, or stated that they were unlikely to apply for another contract). There was little pattern to the complaints of the unsatisfied FBOs: they appear to be largely idiosyncratic, perhaps reflecting the peculiarities of the particular organizations or government officials. A handful of organizations may well have had a very negative experience with government contracting. Burdensome reporting—“red tape”—was the chief cause of complaint. Three-quarters of the complaints (29 percent of all respondents) involved reporting burden, which was sometimes combined with other problems.

Common Concerns about Government Contracting

Some critics of public funding of faith-based service providers assert that government contracts will threaten the faith-based character of such organizations, drive away private funding, or undermine the prophetic role of such organizations in criticizing the government. These are weighty matters, and we asked the respondents about these concerns directly. As Table 3 shows, very few of the faith-based contractors expressed worry. By overwhelming margins, the respondents disagreed that government contracts posed a problem in any of these areas. Only five to six percent of the respondents indicated any agreement with any of these three concerns.

Religious Characteristics of Faith-Based Contractors

FBOs are not homogeneous. To gain a deeper appreciation for their diversity, our survey asked several questions aimed at ascertaining the role that faith plays in the contractors’ programs. We also explored the degree to which these contractors pursue intentional strategies to maintain their organizational distinctiveness in the midst of collaborating with government. Regarding the latter, respondents were asked whether their mission statement was explicitly religious; how many of their staff, board members, and volunteers shared the faith of their organization; and whether they considered religious affiliation in hiring decisions. They were also asked to comment on their “religious expressiveness” and to describe their practices: Did they offer optional religious components in their programs? Did they tend to invite clients to participate in religious activities outside of the government-funded program? Did their

staff and volunteers seek to build relationships with clients through which matters of faith could be discussed? Based on the answers to these “organizational distinctiveness” and “religious expressiveness” items, we built a four-part typology of faith-based contractors.

Table 3: Fears Concerning Public Funding of Faith-Based Organizations

Accepting government contracts threatens to undermine the faith-based character of our organization	
Strongly agree	<1%
Agree	6%
Neutral	5%
Disagree	58%
Strongly disagree	31%
Accepting government contracts threatens to reduce the amount of private funds given to our program	
Strongly agree	1%
Agree	4%
Neutral	5%
Disagree	64%
Strongly disagree	26%
Accepting government contracts threatens our ability to criticize the government based on our religious beliefs	
Strongly agree	1%
Agree	4%
Neutral	6%
Disagree	57%
Strongly disagree	32%

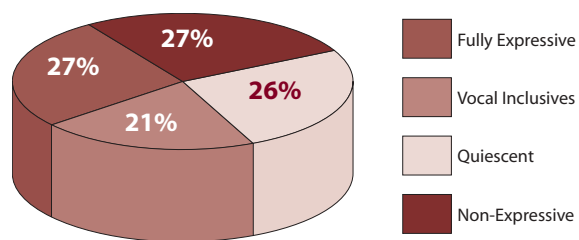
Source: 2002 Hudson Institute/Bliss Institute Fifteen-State Survey of Faith-Based Contractors (N=389)

As shown in Figure 3, we labeled roughly one-quarter of the respondents “Non-Expressive.” These FBOs do not rank high on the religious expression items or the organizational distinctiveness items. Nine of ten of these organizations described their faith commitment as “not relevant” or as “passive,” and they engaged in few expressive practices.

Twenty-six percent of the groups fell into the “Quiescent” category. These faith-based contractors score low on religious expression but high on organizational distinctiveness. The Quiescents are easily recognizable as faith-based because of their personnel (most of their board, staff, and volunteers share the organization’s faith commitments). They thus represent a quiet but consistent presence of faith.

“Vocal Inclusives” compose 21 percent of the sample. These groups rate high on religious expression but lower on organi-

Figure 3: Types of Faith-Based Contractors



Source: 2002 Hudson Institute/Bliss Institute Fifteen-State Survey of Faith-Based Contractors (N=389)

zational distinctiveness (though not as low as Non-Expressives). Most engage extensively in expressive practices. Their lack of organizational distinctiveness is complicated: they tend to care about their board members’ religious affiliations, and have many employees who espouse the same faith. However, they tend not to use faith as a basis of hiring and their volunteers may not share the organization’s faith commitments.

Twenty-seven percent of the FBOs are “Fully Expressive;” these groups rank high on both religious expression and organizational distinctiveness. No one could deny they are “faith-based.” Indeed, this category closely fits the image of such groups among supporters and critics of publicly funded faith-based social services. The Fully Expressives are tied with the Non-Expressives for the largest category overall. The Fully Expressive group includes almost one-half of the congregations; indeed, congregations outnumber nonprofits two-to-one in this category. African-American and other minority and mixed congregations are concentrated in this category. The Fully Expressive category contains the most evangelical Protestant groups (nearly two-thirds) and thus is something of a mirror to the Non-Expressive sector, which contains mainly Catholic Charities and

ecumenical nonprofits. Almost one-half of the Fully Expressives are small organizations and three-quarters are new participants.

Charitable Choice: Awareness and Compliance

Overall, about one-half of the respondents claimed to be familiar with the charitable choice guidelines, and less than one-half reported that such guidelines were included in their contract(s).⁷ There was, however, considerable variation in these figures across the group characteristics. Congregations were more likely to report familiarity with the charitable choice guidelines than were nonprofits, by a large margin. Similarly, large organizations, and especially the Fully Expressive FBOs, were more familiar with the guidelines than were their counterparts. Old participants were more familiar than new participants by a much smaller margin.

This wide variation in the knowledge and use of the charitable choice guidelines is reflected in the strategies the faith-based contractors employed to meet the requirements of charitable choice. Information on five such strategies is provided in Table 4.

The most common of these strategies involved segregating public funds from funds used for inherently religious purposes. Overall, 70 percent of the respondents employed this strategy.

Overall, 70 percent of the faith-based contractors segregated public funds from funds used for inherently religious purposes.

Congregations were more likely to use it than were nonprofits. Additionally, large organizations, and especially Fully Expressive FBOs (80%), actively employed this approach.

The second most common strategy involved providing special training for staff and volunteers on inherently religious matters.

Table 4: Strategies for Complying with the Charitable Choice Guidelines

Percent “yes”	ALL	ORGANIZATION		PARTICIPATION		FAITH TYPE	
		Nonprofits	Congregations	Old	New	Expressive	Non-Expressive
Segregate public ^a funds from other funds	70%	65%	87%	69%	70%	80%	57%
Provide special training for staff/volunteers	60%	48%	60%	62%	58%	65%	47%
Hold inherently religious activities at special times	57%	52%	73%	50%	62%	70%	33%
Hold inherently religious activities at special locations	40%	39%	41%	39%	41%	44%	32%
Keep detailed records of public funding of staff	39%	39%	39%	34%	44%	46%	25%

Source: 2002 Hudson Institute/Bliss Institute Fifteen-State Survey of Faith-Based Contractors (N=389)

Overall, 60 percent of the groups used this means of navigating charitable choice. In a pattern reminiscent of the previous strategy, congregations, large organizations, and Fully Expressive FBOs were most likely to provide specialized training for staff and volunteers to help them understand charitable choice's permissions and restrictions. On this issue and the preceding one, there was essentially no difference between old and new participants.

Nearly three-fifths of the respondents reported employing a third strategy; namely, holding inherently religious activities at special times apart from the services provided under the government contract. The two remaining strategies were followed less frequently. Holding inherently religious activities at a different location from the contracted services and keeping detailed records of the public funds spent on staff were each employed by some two-fifths of the faith-based contractors surveyed.

Congregations, new participants, and Fully Expressive FBOs were the most likely to employ multiple strategies for ensuring compliance with the charitable choice guidelines.

Overall, congregations, new participants, and Fully Expressive FBOs were the most likely to employ multiple strategies for ensuring compliance with the charitable choice guidelines. These respondents are the ones that critics of charitable choice are most concerned about. Based on our findings, though, it is these very groups that demonstrate intentional and extensive efforts to comply with charitable choice's restrictions on underwriting inherently religious activities with government dollars. Just six percent of the respondents claimed that they used no strategy at all to navigate the charitable choice guidelines, and these organizations were concentrated among the Non-Expressive category.

Attitudes Toward Charitable Choice

The survey also listed some of the major provisions of charitable choice and asked the importance that respondents assigned to them. The most commonly underlined provision was "Notifying clients that they need not participate in religious activities to receive services from a faith-based organization." Seventy-seven percent of the faith-based contractors regarded this as "very important." Nonprofits, large organizations, and the Non-Expressive groups reported this item as more important than their counterparts.

Overall, 83 percent of the faith-based contractors consider charitable choice's provision of a government-funded alternative program for clients desiring such as very or somewhat important.

Another provision carrying much weight with FBOs was "Allowing faith-based organizations the equal opportunity to compete with other organizations for government grants on a level playing field." Again, approximately three-quarters of respondents labeled this "very" important. Large organizations and Fully Expressive FBOs assigned this provision greater importance than did their counterparts.

The third most popular provision should come as no surprise, since many of the organizations surveyed already practice it: "Allowing faith-based organizations to control the membership of their governing board." Seventy-one percent said this was very important. Congregations, small organizations, and Fully Expressive FBOs regarded this provision as more important than their counterparts.

Almost one-half of the respondents regarded "allowing faith-based organizations to maintain a religious environment at the service delivery site, such as displaying religious symbols" as very important, but about a quarter do not consider this as very important at all. Sixty-seven percent of the faith-based contractors say charitable choice's hiring protections are "very" or "somewhat" important to them (notably, 89 percent of Fully Expressive FBOs say this, as do 73 percent of congregations and 71 percent of new participants).

Protecting Clients' Rights

The faith-based contractors surveyed place great importance on protecting the civil rights of clients served under government contracts. Seventy-five percent reported that they reassure clients that service provision is not contingent on participation in inherently religious activities. Seventy percent stress to clients that participation in such religious activities is voluntary and optional. And sixty-eight percent notify clients of their right to choose an alternative provider (even though, technically, under most versions of charitable choice, this is the responsibility of government, not of the FBO).⁹ Of course, receiving services from a faith-based group is not for everyone; thus charitable choice gives clients the right to choose an alternate provider. Overall, only nine percent of the faith-based contractors reported any clients leaving their programs to opt for an alternative, and these all said that the number of clients who had left was five or fewer.

Conclusion

This survey of faith-based contractors provides strong evidence that government agencies and FBOs have successfully crafted fruitful partnerships. A remarkable 93 percent of those surveyed are satisfied with their relationship with government and 92 percent indicate interest in future contracting. Though critics worry that FBOs partnering with government may compromise their spiritual mission or lose their prophetic voice, the survey respondents themselves express few such fears. The faith-based groups' compliance with charitable choice is very strong, with most adopting specific, deliberate strategies to maintain—simultaneously—the religious character of their programming, their organizational distinctiveness, and their faithfulness to the law. Under these collaborations, clients' rights are also being respected through deliberate and intentional actions by the contractors. Meanwhile, government agencies are not generally erecting barriers that make it unreasonably difficult for FBOs to compete for funding and are not excessively intrusive in their monitoring of faith-based contractors.

There are, however, areas for improvement. Awareness of the charitable choice guidelines by FBOs is less than ideal and only about half of the contracts written with the FBOs actually include the specific language of the guidelines. Moreover, some FBOs find government's reporting requirements burdensome and a small number of the contractors had a particularly negative experience with their government partner.

The survey also indicates that charitable choice is making a positive difference for disadvantaged citizens. First, the money faith-based contractors are garnering from government is making a real difference on the ground: these nonprofits and congregations are offering more and expanded social service

programs. Second, the survey results also strongly suggest that charitable choice is broadening the traditional social services network and thus creating more choices for clients. That is, organizations new to government contracting—particularly those operated by evangelicals and minorities—are successfully competing for public dollars, working with government, and welcoming disadvantaged citizens in need.

This reality begs the question of why such groups are now collaborating, when they were not before 1996. It seems reasonable to suppose that their willingness is based at least in part on the new rights guaranteed them through charitable choice. For two-thirds of the groups, and especially for congregations and those nonprofits defining themselves as highly expressive religiously, charitable choice's hiring protections are important. For even more groups, charitable choice's guarantee that FBOs can maintain control of their governing board is critical. These protections, and the apparently more level playing field that has been achieved through charitable choice, have raised the "comfort level" of certain groups within the faith community in entertaining the possibility of government collaboration. What we see is a broad diversity of faith-based groups providing social services, and conducting those services in a variety of ways—some with more emphasis on voluntary religious program components and some without.

Having heard the perspective of the faith-based contractors, future research could fruitfully be employed in assessing the attitudes of government officials contracting with FBOs and clients receiving services from FBOs. This will give policymakers the fullest understanding of just how charitable choice is faring. From what we now know from hard data, so far, the news is positive.



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A PDF of the entire report, *Fruitful Collaborations: A Survey of Government-Funded Faith-Based Programs in 15 States*, is available at

www.hudsonfaithincommunities.org

ENDNOTES

- 1 As used throughout, “contractors” means contractors and grantees. Government officials in the fifteen states under study designated the contractors surveyed as “faith-based” organizations. This label was not necessarily accepted by the organizations themselves. A small number of organizations refused to participate in the survey because they did not regard themselves as “faith-based.”
- 2 These restrictions apply in the case of direct government funding. There are no restrictions on inherently religious activities in the case of indirect government funding.
- 3 Our evaluation is of the quality of collaboration between the FBOs and the government agencies from which they receive funding, as reported by the FBOs themselves. This is not a study of the effectiveness of the FBOs’ actual social service programs—which is, of course, an extremely important question in itself.
- 4 The contracts were held with state and local government agencies administering these federal funds. The four programs regulated by charitable choice are: Temporary Assistance to Needy Families (TANF), Welfare to Work (WtW), the Community Services Block Grant (CSBG), and the Substance Abuse and Mental Health Services Administration (SAMHSA).
- 5 If 90 individuals with whom no contact was made are excluded (due to wrong telephone numbers), the response rate was 78 percent. The margin of error in this survey is plus or minus 5 percent. While some individuals commented on their organization’s experience with more than one contract, no individual spoke on behalf of more than one FBO.
- 6 “Evangelical” includes the one-sixth of nonprofits directly connected with an evangelical Protestant denomination; the nondenominational organizations, most of which were clearly part of the evangelical Protestant tradition; and the Salvation Army, an evangelical denomination with a special mission to carry out charitable programs.
- 7 Charitable choice does not require that state or local agencies actually codify the charitable choice rules in contracts with FBOs using the federal funding streams it regulates. The main issue is that contracts must conform to the rules. Codifying the rules directly in the contract language, however, is likely to facilitate successful compliance.
- 8 “Public” here specifically means “government” funds.
- 9 In SAMHSA contracts, FBOs have a responsibility to notify clients of their right to an alternative provider. In all versions of charitable choice, the government bears the burden of actually providing the alternate.

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