

Choosing partners: New federal rules

by [Heidi Rolland Unruh](#) in the [December 4, 2002](#) issue

George Bush's "faith-based initiative" has generated fierce debate at every turn—in the courts, in Congress and in public opinion. Yet in some respects, the initiative is already in place. The "Charitable Choice" provision included in the 1996 Welfare Reform Act is still the law of the land, and faith-based offices in five federal departments are quietly bulldozing roadblocks to government partnerships with religious groups. President Bush continues to push the cause with bully-pulpit affirmations, as does James Towey, who took over the White House Office of Faith-Based and Community Initiatives (OFBCI) in February after John Dilulio's resignation. Collaborations with faith-based programs are on the rise. On the other hand, so are court challenges and legislative obstacles.

Action on the legislative front stalled last year after a flagship bill advancing the faith-based initiative narrowly passed the House. The current Senate bill, called the CARE (Charity Aid, Recovery and Empowerment) Act, boasts bipartisan sponsorship headed by Senators Joseph Lieberman (D., Conn.) and Rick Santorum (R., Pa.). The CARE Act avoids the most controversial provisions of the House bill, which sought to ensure faith-based grant-holders' religious autonomy, protect their right to religious preference in hiring, and exempt them from local laws barring job discrimination against homosexuals.

Although a compromise bill, the CARE Act is not fluff. It increases incentives for charitable giving, most notably by allowing a \$250-per-person charitable deduction for nonitemizers (for the next two years). It creates Individual Development Accounts (IDAs) to help low-income households save for education, a home or a small business. It stipulates that agencies cannot be refused funding simply because they have a religious name or display religious symbols such as a cross. The bill also seeks to empower faith-based and grass-roots agencies by providing technical and capacity building assistance, and by expediting applications for 501(c)(3) nonprofit status. The CARE Act's sponsors expected it to win passage without the contentious debate that hobbled the House bill. A group of senators critical of the faith-based initiative, however, has checked its progress, citing concerns about religious

discrimination. Whether the Senate will approve the bill in a version that the House will endorse is uncertain.

Meanwhile, federal administrative changes have had the effect of encouraging partnerships without the need for a congressional roll call. A year ago, the White House charged five federal departments—Health and Human Services, Housing and Urban Development, Education, Labor and Justice—with eliminating funding barriers to faith-based organizations (FBOs). Each department has set up a center to review regulations and procurement procedures. This process has yielded significant changes, such as allowing church-trained counselors to participate in government-funded substance abuse programs. The OFBCI has also helped bring bureaucrats face-to-face with faith-based foot soldiers. Less tangibly, insiders note a change in the atmosphere. “We are committed to integrating faith groups within the system,” said a Department of Labor official.

In general, Charitable Choice creates not a separate pot of money but a set of rules governing access to existing government funds. But faith-based programs might find some new gold at the end of this rainbow. A Compassion Capital Fund created by the White House has awarded \$30 million this year for technical assistance, “best practice” evaluations, and other programs to encourage faith-based and community groups. The passage of the CARE bill would significantly boost this fund. Some states and federal departments are also designing faith-friendly grant programs; the Department of Labor, for example, awarded \$14.9 million to help faith-based and grass-roots groups connect with state employment services.

Has all this made a difference for faith-based programs or the people they serve? A recent Hudson Institute study of 15 states indicates that the number of public partnerships with faith-based organizations has been small but growing. The report, by Amy Sherman, lists 726 contracts with faith-based entities, including 130 congregations and involving a total of about \$124 million for a wide gamut of services. Most of these contracts are small (two-thirds are under \$100,000), particularly those involving congregations. Significantly, about half of the FBOs contracting with government are “new players,” authentic grassroots agencies. Sherman concludes, “Most of the 15 states examined truly are doing social welfare business in a new way.”

The report also demonstrates the faith-based initiative’s ripple effect. Several states have adapted their procedures to encourage collaborations. A number of states and

cities have appointed liaisons to encourage outreach. A program called Faithworks Indiana, for example, informs FBOs about opportunities to contract with the state's welfare department. Many collaborations do not involve a transfer of dollars, but are expanding the presence of faith-based providers in the government-funded war on poverty. Such developments point to a discrepancy between the Washington policy wars and the view from the streets. As one researcher put it: "The faith-based train has left the station, but Congress is still standing on the platform."

Like first dates, however, new partnerships have not always gone smoothly. Cumbersome grant applications, daunting start-up costs, onerous red tape and limited administrative capacities have deflected some groups' enthusiasm. One positive note: few beneficiaries or FBOs in government-funded programs have complained about violations of their religious freedoms. But this may be in part because the government has not issued or enforced clearly defined guidelines for managing religious program elements. "We have a Herculean task ahead of us," admitted OFBCI director Towey, in "educating organizations on the do's and don't's of what you can or can't do on Uncle Sam's dollar."

This fuzziness has prompted several legal challenges to Charitable Choice. Can government set aside funds specifically for faith-based organizations? (No, says the ACLU of Kentucky, in response to an initiative in Louisville; the case is still pending.) Can a welfare-to-work program spend government funds on religious activities like Bible studies if they aid in job training? (No, according to a ruling against Jobs Partnership of Texas.) Can government fund a program with pervasively religious elements? (Not if "unrestricted, direct funding" is involved, though it is permissible if the funding is by indirect means such as vouchers, ruled a federal judge concerning the Faith Works program in Milwaukee.) Can a FBO refuse to hire someone who is not of the same faith, or fire someone whose homosexuality violates its religious tenets? (To be decided; a lawsuit was filed this summer on both counts against the United Methodist Children's Home in Georgia.) None of these cases would overthrow Charitable Choice itself, though they will set standards for how it may be implemented.

What is in store for faith-based initiatives? Major legislative advancements appear unlikely. Backers of the initiative seem focused on smaller, less contentious steps, like the CARE bill. And government officials have learned to say "faith-based and community" in the same breath, diluting the accent on religion. Despite the ongoing debate, several private-sector groups have endorsed the notion that government

can navigate the church-state issues. The report “Finding Common Ground: 29 Recommendations of the Working Group on Human Needs and Faith-Based and Community Organizations,” created by leaders of groups with contrasting views on Charitable Choice, identifies a swath of policy options that have broad-based support. Partnerships in various forms are increasingly becoming a reality in many communities. In sum, it appears that government collaboration with faith-based groups is here to stay. The shape and scope of these partnerships is what remains to be negotiated.