

June 2006

# FAITH-BASED AND COMMUNITY INITIATIVE

## Improvements in Monitoring Grantees and Measuring Performance Could Enhance Accountability





Highlights of GAO-06-616 a report to congressional requesters

## Why GAO Did This Study

The Administration's efforts to improve the federal government's provision of social services through its Faith-Based and Community Initiative have sparked considerable interest. GAO was asked to examine (1) the activities of the initiative-related centers in five federal agencies; (2) the grant award procedures for selected grants; (3) the extent to which selected federal and state agencies are providing information on and ensuring compliance with safeguards designed to protect faith-based organizations (FBO), beneficiaries, and the government; and (4) how the progress of the initiative is being measured. We interviewed government officials administering 10 grant programs and officials from 26 FBOs.

## What GAO Recommends

We recommend that the Director of the Office of Management and Budget (OMB) ensure that all agencies with initiative-related centers include information on the safeguards in grant documents and in monitoring guidelines, improve data on grants awarded to FBOs, and develop a plan for reporting on progress toward the initiative's long-term goals. OMB generally agreed but expressed some concerns about the practicality of implementing a few of the recommendations. We also recommend that the Department of Justice clarify its regulations on allowed activities and clarify relevant language in its contracts, and Justice generally agreed.

[www.gao.gov/cgi-bin/getrpt?GAO-06-616](http://www.gao.gov/cgi-bin/getrpt?GAO-06-616).

To view the full product, including the scope and methodology, click on the link above. For more information, contact Andrew Sherrill at (202) 512-7252 or [ASherrill@gao.gov](mailto:ASherrill@gao.gov).

# FAITH-BASED AND COMMUNITY INITIATIVE

## Improvements in Monitoring Grantees and Measuring Performance Could Enhance Accountability

### What GAO Found

In 2001 the Administration introduced the Faith-Based and Community Initiative and established initiative-related centers in five federal agencies. The centers employ a range of activities and resources to implement the initiative. Since fiscal year 2002, these centers have cumulatively spent more than \$24 million on administrative activities.

In reviewing grant applications and awarding grants, federal and state agencies reported using the same process for FBOs as they do for other organizations in the 10 grant programs we reviewed. Since 2001, federal agencies have awarded over \$500 million through new grant programs to provide training and technical assistance to faith-based and community organizations and to increase the participation of these organizations in providing federally funded social services.

The government agencies administering the programs that we reviewed provided grantees with some information on the safeguards designed to protect the interests of FBOs, beneficiaries, and the government. Most of the agencies provided grantees with an explicit statement on the safeguard prohibiting the use of direct federal funds for inherently religious activities. If these activities are offered, they must be offered separately in time or location from services provided with direct federal funds and must be voluntary for the beneficiary. However, we found that Justice's regulation and guidance related to these activities is unclear for its correctional programs. We also found that only four programs provided a statement on the rights of program beneficiaries and only three provided information on permissible hiring by FBOs. While officials in all 26 FBOs that we visited said that they understood that federal funds cannot be used for inherently religious activities, a few FBOs described activities that appeared to violate this safeguard. Four of the 13 FBOs that provided voluntary religious activities did not separate in time or location some religious activities from federally funded program services. Government agencies are not required to monitor FBO grantees differently than secular organizations. Few of the federal and state agencies administering these programs included references in their monitoring guidelines on grantee compliance with the safeguards.

OMB and the White House Office of Faith-Based and Community Initiatives assess agencies' progress in implementing the short-term goals of the initiative and highlight this progress through a number of published vehicles. However, it is unclear whether the data reported on grants awarded to FBOs provide policymakers with a sound basis to assess the progress of agencies in meeting the initiative's long-term goal of greater participation of faith-based and community organizations. Moreover, little information is available to assess progress toward another long-term goal of improving participant outcomes because outcome-based evaluations for many pilot programs have not begun. Also, OMB faces other challenges in measuring and reporting on agencies' progress in meeting the long-term goals of the initiative.

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## **Abbreviations**

FBCI	Faith-Based and Community Initiatives
FBO	faith-based organization
HHS	Department of Health and Human Services
HUD	Department of Housing and Urban Development
OMB	Office of Management and Budget
PMA	President's Management Agenda
WHOFBCI	White House Office of Faith-Based and Community Initiatives

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United States Government Accountability Office  
Washington, DC 20548

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June 19, 2006

The Honorable George Miller  
Ranking Minority Member  
Committee on Education and the Workforce  
House of Representatives

The Honorable Pete Stark  
Ranking Minority Member  
Subcommittee on Health  
Committee on Ways and Means  
House of Representatives

Each year the federal government provides billions of dollars to organizations that provide social services to needy families and individuals. In large part, these funds are provided through competitive grants and contracts either directly to organizations or through formula grants passed through state agencies to local organizations. Organizations providing these services have traditionally included both secular and faith-based organizations (FBO), which include churches and religiously affiliated entities. In the past, as a condition of receiving public funds, FBOs were required to secularize their services and premises so that their social service activities were distinctly separate from their religious activities.<sup>1</sup> More recently, courts have become less concerned with the religious nature of the organization, and in 1996 Congress enacted “charitable choice” provisions which authorized religious organizations<sup>2</sup> to compete on the same basis as other organizations for federal funding under certain programs without having to alter their religious character.<sup>3</sup>

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<sup>1</sup>This 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).

<sup>2</sup>The federal legislation applies to charitable, religious, or private organizations but does not specifically define the term “religious organization.”

<sup>3</sup>For a discussion on implementation of charitable choice regulations see GAO, *Charitable Choice: Federal Guidance on Statutory Provisions Could Improve Consistency of Implementation*, [GAO-02-887](#) (Washington, D.C.: Sept. 10, 2002).

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In 2001, the President created the White House Office of Faith-Based and Community Initiatives (WHOFBCI) to establish policies, priorities, and objectives to further expand the work of faith-based and community organizations. In that same year, the President, by executive order, created centers for the Faith-Based and Community Initiatives (FBCI) in five federal agencies that administer a broad range of social service programs.<sup>4</sup> Then, through a series of executive orders, the President incorporated charitable choice principles in social service programs administered by federal agencies, created initiative-related centers in six additional federal agencies,<sup>5</sup> and established fundamental principles for FBOs receiving federal funds. Modeled after the charitable choice legislation, these principles included safeguards designed to protect the interests of FBOs, beneficiaries receiving social services, and government agencies providing federal funds. For example, FBOs are allowed to retain religious icons and symbols in the facilities where they provide services and generally are not prohibited by federal law from making employment decisions based on religious grounds, even after receiving federal funds. However, they are not permitted to provide “inherently religious” activities such as prayer or worship with direct federal funds or discriminate against beneficiaries on the basis of religion.

The Administration’s efforts to expand opportunities for these organizations and to strengthen their capacity to provide social services through its initiative has sparked considerable interest both among various parties involved in providing social services and among researchers, religious leaders, and other groups. Some have lauded efforts to encourage more FBOs to seek federal funds, maintaining that these organizations are more in tune with the needs of their communities than other organizations and can better serve individuals that may need a range of social services. Others have expressed concerns about the potential for federal funds to be used for religious purposes and the extent to which organizations are monitored to ensure the appropriate use of federal funds. Government agencies primarily monitor grantees by reviewing grantee documents, conducting site visits, and conducting single audits. The Single Audit Act requires state and local governments and nonprofit organizations that

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<sup>4</sup>These agencies are the Departments of Health and Human Services, Housing and Urban Development, Education, Labor, and Justice.

<sup>5</sup>The six additional centers are the Department of Agriculture, the Agency for International Development, the Department of Commerce, the Department of Veterans Affairs, and the Small Business Administration, and most recently, the Department of Homeland Security.

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expend \$500,000 or more in federal awards in a fiscal year to have a single audit, which is an audit of the federal grantee's financial statements and compliance with laws and regulations governing federal awards. While government agencies are responsible for ensuring that grantees comply with grant requirements, little is known about how these agencies are working with FBOs to ensure that these organizations understand and comply with the safeguards.

In addition, a sound performance and reporting system for the initiative is important in light of claims by some interested parties that the initiative has increased participation by faith-based and community organizations in providing federally funded social services. It is also important as Congress is likely to continue to discuss efforts to formalize—by establishing in statute—the WHOFBCI and the work activities within the federal centers for the faith-based and community initiative. An informed debate about these issues is helped by the availability of credible performance information focusing on the outcomes achieved with budgetary resources and other tools.<sup>6</sup>

To shed light on how centers and federal agencies are carrying out the initiative and how the government is assessing the initiative's performance, you asked us to explore the work of the centers and agencies in implementing the initiative, including the extent to which government entities are providing guidance to, and oversight of, faith-based grantees.

Specifically, you asked:

1. How do the activities and resources of the initiative-related centers in five federal agencies compare?
2. What are the grant award procedures for selected project and formula grants, and are they the same for all grant applicants, including FBOs?
3. To what extent are selected federal and state agencies providing information on and ensuring compliance with the safeguards designed to protect the interests of FBOs, beneficiaries, and the government?

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<sup>6</sup>For more information on reexamining federal programs and performance budgeting, see GAO, *21st Century Challenges: Performance Budgeting Could Help Promote Necessary Reexamination*, [GAO-05-709T](#) (Washington, D.C.: June 14, 2005).



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4. How is the federal government measuring the progress of the initiative?

To understand how the centers administer the initiative, we interviewed center officials in the five agencies that were the first to establish centers for the Faith-Based and Community Initiative. These are the Departments of Education (Education), Health and Human Services (HHS), Housing and Urban Development (HUD), Justice, and Labor. We analyzed data on their expenditures and work activities and, to assess the reliability of the data for expenditures, we conducted semistructured interviews with agency officials about data quality control procedures and reviewed relevant documentation. We determined the data were sufficiently reliable for the purposes of this report. Our review focused on 10 programs, including at least 1 program from each of these five agencies. To obtain information on how these agencies award and monitor grants to FBOs, we interviewed program officials administering six federal project grants (competitive project grants awarded by a federal agency directly to a local organization), and one competitive procurement program. We chose programs that awarded grants to numerous FBOs and that provided a range of social services, including mentoring of children, housing for the homeless, and business development grants to refugees.<sup>7</sup> We also met with federal program officials responsible for overseeing three formula grant programs (program grants that are passed through state agencies to local organizations) that attract or are likely to attract significant FBO participation.<sup>8</sup> For the 10 programs included in our review, we also analyzed pertinent documents provided to grantees and prospective grantees, such as grant applications, contracts, and award letters. Our findings pertain to the 10 programs included in our review and are not generalizable to all programs administered by these five agencies. To understand how the federal government measures the progress of the initiative, we spoke with officials from the Office of Management and Budget (OMB) and analyzed pertinent documents.

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<sup>7</sup>The six competitive project grant programs are Mentoring Programs (Education); Community-Based Abstinence Education Program; Mentoring Children of Prisoners; Microenterprise Development Program (HHS); Continuum of Care (HUD); and Small Grassroots Faith-Based and Community Organizations Connecting with the One-Stop Delivery System (Labor). The competitive procurement program is Justice's Community Corrections Contracting.

<sup>8</sup>The formula grants included in our review are HHS's Abstinence Education Program and its Substance Abuse Prevention and Treatment Block Grant, and HUD's Emergency Shelter Grant Program.

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To obtain more specific information on how the three formula grants are awarded by the states to local organizations and how their grantees are monitored for compliance with the safeguards, we visited four states—California, Georgia, Ohio, and Texas—and interviewed numerous state officials. We also interviewed county officials in California and Ohio and several federal regional and field office program staff. We chose these states because they each received significant funding from federal direct programs in 2003 or 2004 and because FBOs in these states received funds from at least 3 or more of our selected programs. In addition, we considered geographic dispersion and diversity in terms of whether the state established an initiative-related center.<sup>9</sup>

We also conducted semistructured interviews with 26 selected FBOs in these four states to determine their understanding of program regulations and the extent to which they have been monitored for compliance with the key safeguards related to the initiative. We selected FBOs that had received federal project and formula grants in 2003 or 2004 from the 10 programs included in our review. Finally, we interviewed independent auditors in three states who had completed single audits for a few of our selected FBOs. Because we used a nonprobability sample of FBOs, our findings are not generalizable to all FBOs receiving federal funds from the programs included in our review. Our work was conducted from March 2005 through June 2006 according to generally accepted government auditing standards.

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## Results in Brief

The five centers for faith-based and community initiatives that we reviewed employ a range of activities and resources to implement the initiative, in part based on what activities center officials determined was necessary to fulfill their responsibilities for the initiative and differences in center staffing levels and administrative costs. One of the centers' first tasks was to identify and eliminate barriers to the participation of faith-based and community organizations in federally funded services. The centers' ongoing efforts include collecting data on FBOs' participation in federal grant programs, developing pilot programs, and providing outreach and technical assistance to faith-based and community organizations. The centers adopted different approaches to technical assistance training activities based on what they needed to do to support the initiative. In

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<sup>9</sup>Texas and Ohio have established state faith-based offices, while California and Georgia have not.

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general, HUD's and Education's centers help organizations learn how to apply for funds, while Labor's center helps grantees learn how to manage grants. Justice's and HHS's centers coordinate with program offices that provide training to these organizations. The next phase of the centers' work will focus on encouraging partnerships between faith-based and community organizations and state and local governments. Since fiscal year 2002, the five centers estimated that they had cumulatively expended more than \$24 million on administrative activities, but these estimates generally did not include additional funding that agency program offices provided to assist in the initiative's implementation, such as administrative costs associated with program offices' efforts to assist faith-based and community organizations. In fiscal year 2005, four of the centers spent the largest proportion of their funding on staff salaries and benefits—ranging from 35 percent to 87 percent—followed by other expenditures for such administrative costs as rent, contracts, and travel. Factors such as the number of staff and differences in administrative costs such as rent and travel account for, in part, the differences in resources across centers.

Federal and state officials told us they do not treat FBOs any differently than other organizations during the grant award process in the 10 federal programs we examined. Some new programs have been established since the beginning of the initiative to provide training and technical assistance to faith-based and community organizations and increase faith-based and community organization participation in delivering federally funded services. In the programs we reviewed, agencies used standard criteria and independent reviewers to evaluate applications for funding, and reviewers do not necessarily know whether an applicant is faith-based because organizations are generally not required to identify themselves as FBOs. Funding decisions were generally based on applicants' scores that were awarded for various criteria, such as the quality of the project plan. While the process to award funds is the same for faith-based as for other organizations, between fiscal years 2002 and 2005, federal agencies have awarded over \$500 million through new competitive grant programs that are intended to encourage greater participation of faith-based and community organizations in providing these social services. Some of these programs, such as Labor's Prisoner Reentry Initiative, limit eligibility to these organizations, while others, such as HHS's Compassion Capital Fund Demonstration Program, fund intermediary organizations that provide capacity-building assistance to faith-based and community organizations.

The government agencies administering the programs that we reviewed provided grantees with some information on the safeguards designed to protect FBOs, their clients, and the government, but few agencies included

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in their monitoring guidelines checks for grantee compliance with the safeguards related to nonallowable activities and nondiscrimination against beneficiaries. Specifically, 7 of the 10 federal programs that we reviewed provided a statement to grantees regarding the prohibition on the use of direct federal funds for inherently religious activities. Officials at Justice told us that they believe FBOs in the Community Corrections Contracting program are exempt from the prohibition on providing inherently religious activities because of an exception specified in the agency's regulations. However, we believe that the scope of this exception is left unclear and thus could create uncertainty for FBO program staff about allowable religious activities using federal funds. Regarding the safeguards on nondiscrimination against beneficiaries and permissible hiring by FBOs, only 4 provided a statement on nondiscrimination and only 3 provided information on permissible hiring by FBOs based on religion. While officials in all 26 FBOs that we visited told us that they understood that federal funds could not be used for inherently religious activities, 4 of the 13 FBOs that offered voluntary religious activities—such as prayer or worship—did not appear to understand the requirement to separate these activities in time or location from their program services funded with federal funds. For example, one FBO official told us that she discusses religious issues while providing federally funded services if requested by a participant and no other participants object, and a few told us that they pray with beneficiaries during program time if requested by the beneficiary. Government agencies are not required to monitor FBO grantees differently than secular organizations. Only 2 of the 7 federal agencies providing project and procurement grants, and 5 of the 13 state agencies administering formula grants included references in their monitoring guidelines on grantee compliance with these safeguards. Agencies' single audit reviews, which can be used as an effective tool to monitor organizations, only apply to those organizations expending \$500,000 or more in federal funding in a given year, and generally do not include specific checks for these safeguards.

OMB and WHOFBCI assess agencies' progress in implementing the short-term goals of the initiative, but data limitations—such as the difficulty in identifying an FBO—and a lack of publicly available information hinder the federal government's efforts to measure agencies' progress in achieving the initiative's two long-term goals. OMB and WHOFBCI assess agencies' implementation of the initiative and grade agencies' efforts to carry out activities in accordance with the *Standards for Success* that outline the centers' responsibilities, such as collecting accurate data on the participation of faith-based and community organizations and conducting outcome evaluations of all pilot programs. OMB and

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WHOFBCI award a green grade to agencies that meet all of the initiative's standards for success. In the first quarter of fiscal year 2006, three of the five centers we reviewed received green status. OMB established two long-term goals for the initiative—greater participation by faith-based and community organizations and improved participant outcomes—but data limitations may hinder efforts to assess the initiative's progress in achieving these goals. Importantly, there are no criteria for what constitutes a faith-based organization that all agencies must use to identify FBOs, and FBOs are not required to self-identify, leaving individual agencies and states to determine which organizations are faith-based. Determining what elements constitute an FBO is challenging. Although no method can ensure that all data collected are accurate, having consistently applied criteria or requiring self-identification would provide greater assurance that agencies are collecting accurate data than the current method. Moreover, while the WHOFBCI has published data on trends of FBO participation in providing federally funded social services, it has not reported on the participation of community-based organizations—the other group of organizations specified in the long-term goal. Consequently, it is unclear whether the reported data by the WHOFBCI provides policymakers with a sound basis to assess the progress of agencies in meeting the initiative's long-term goal of greater participation of faith-based and community organizations. Progress in achieving the initiative's long-term goal of improved participant outcomes is not yet known because most agencies have not completed the OMB-required outcome-based evaluations of their pilot programs. Of the 15 pilot programs under way, 1 outcome-based evaluation has been completed, 6 evaluations are under way, and 6 are planned. Outcome-based evaluations are not planned for 2 of the pilot programs. Outcome-based evaluations may involve several years of data collection before the analysis can take place and several of these pilot programs were initiated only a few years ago. OMB also faces other challenges in measuring and reporting on how agencies are progressing toward accomplishing the initiative's two long-term goals.

To improve grantee understanding and federal agency oversight of the equal treatment regulations for programs in which faith-based organizations are eligible for federal funding, we recommend that the Director of OMB ensure that all agencies with initiative-related centers include information on the equal treatment safeguards in their grant documents and direct agencies to include a reference to these safeguards in their monitoring tools. To ensure that contractors for Justice's correctional programs understand the exception to the prohibition on using federal funds for inherently religious activities, we recommend that the Attorney General clarify the exception in Justice's equal treatment

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regulations and include a clear explanation of the exception and its scope in the contracts for its correctional programs. To improve accountability of the Faith-Based and Community Initiative, we recommend that the Director of OMB work with agencies to improve how federal agencies identify which organizations are faith-based and develop a plan for measuring and reporting on agency progress in achieving the long-term goals of the initiative.

We received comments from Education, HHS, HUD, Justice, Labor and OMB on a draft of this report. OMB officials stated that they generally agreed with the report's recommendations, although they had comments pertaining to several of the recommendations. With regard to our recommendation that program-specific single audit supplements include a reference to the equal treatment safeguards, OMB stated that for some programs that already have extensive audit requirements, expanding the program-specific audit requirements could pose additional burdens to the independent auditors conducting those reviews. In response, we modified the recommendation to indicate that it might not be appropriate to include a reference to the equal treatment safeguards in some program-specific audit supplements. OMB officials raised issues with our recommendation pertaining to getting better data, saying that while they agreed that obtaining better data would be helpful, there are obstacles to obtaining better data and that they are uncertain about the extent to which the data could be further improved. While we acknowledge the challenges in obtaining data, various agency centers or program offices are currently applying criteria—whether explicitly or implicitly—that determine whether they categorize an organization as an FBO, and we believe that greater consistency in their use of criteria could improve the data. With regard to our recommendation that OMB develop a plan to measure and report out on long-term goals, OMB said it was reasonable for OMB to report out on the results of agencies' outcome evaluations of pilot programs but that the White House was already reporting data on participation of faith-based organizations. OMB proceeded to acknowledge that there is a lack of clarity about how the two long-term goals of the initiative are linked with OMB's *Standards for Success* and that it may be appropriate to clarify their connection as part of a reassessment of the long-term goals. In response, we broadened the wording of our recommendation to note that it may be appropriate to clarify the connection of the long-term goals to the *Standards for Success*. In its comments, Justice generally agreed with the two recommendations we made to the Attorney General. Justice, Education, HHS, HUD, and Labor raised various issues with the report, which we discuss and respond to in the agency comments section of the report and appendix IV on

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Justice's comments. Education, HHS, HUD, Labor and OMB also provided technical comments, which we incorporated where appropriate.

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## Background

Citing the crucial role faith-based and community organizations play in areas such as curbing crime and overcoming addiction, in 2001 the President introduced the WHOFBCI with the goal of expanding opportunities for these organizations and to strengthen their capacity to provide social services. The President issued executive orders that created the WHOFBCI, initiative-related centers in several federal agencies, and rules to ensure that organizations are treated equally in government programs.

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## Executive Orders Establish Centers and Responsibilities

Beginning in January 2001, the President issued several executive orders to implement the Faith-Based and Community Initiative (see table 1). These executive orders established a WHOFBCI and centers for faith-based and community initiatives in a number of federal agencies as well as principles for ensuring equal treatment of faith-based and community organizations in federal government programs.

**Table 1: Executive Orders Related to the Faith-Based and Community Initiative**

<b>Executive order</b>	<b>Purpose</b>	<b>Description</b>
Executive Order 13199 January 29, 2001	Created the White House Office of Faith-Based and Community Initiatives	The White House Office of Faith-Based and Community Initiatives is given lead responsibility to establish policies, priorities, and objectives for efforts to expand opportunities for faith-based and community organizations to provide social and community services
Executive Order 13198 January 29, 2001	Created Centers for Faith-Based and Community Initiatives in five agencies: Education, HHS, HUD, Justice, and Labor	To coordinate agency efforts to eliminate obstacles to the participation of faith-based and community organizations in providing federally funded social services
Executive Order 13280 December 12, 2002	Created centers for Faith-Based and Community Initiatives in two additional agencies: Department of Agriculture and Agency for International Development	To coordinate agency efforts to eliminate obstacles to the participation of faith-based and community organizations in providing federally funded social and community services
Executive Order 13279 December 12, 2002	To provide, among other things, guidance to federal agencies in formulating policies regarding faith-based and community organizations and to ensure equal protection under the laws for these organizations	Set out criteria on fundamental principles and policymaking that designated federal agencies can use in establishing safeguards applicable to FBOs providing services under federal programs
Executive Order 13342 June 1, 2004	Created centers for Faith-Based and Community Initiatives in three additional agencies: Departments of Commerce and Veterans Affairs and the Small Business Administration	To coordinate agency efforts to eliminate obstacles to the participation of faith-based and community organizations in providing federally funded social and community services
Executive Order 13397 March 7, 2006	Created Center for Faith-Based and Community Initiatives in the Department of Homeland Security	To coordinate agency efforts to eliminate obstacles to the participation of faith-based and community organizations in providing federally funded social and community services

Source: GAO analysis of White House Office of Faith-Based and Community Initiatives Information.

These executive orders identify the key responsibilities for each center:

- an agencywide audit of barriers to participation of faith-based and community organizations in delivery of social services;
- removal of barriers to these organizations' participation in providing federally funded social and community services;
- a comprehensive effort to incorporate faith-based and community organizations in department programs and initiatives;
- development of pilot and demonstration programs to increase these organizations' participation in federal, state, and local initiatives; and
- development and coordination of outreach efforts to disseminate information more effectively to these organizations.

The executive orders also direct the centers to coordinate their activities with the WHOFBCI. Centers do not award any federal funds to faith-based and community organizations. However, they coordinate with agency



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program offices that are responsible for awarding federal funds and monitoring grantees. For example they review program funding guidance to ensure that the program does not contain barriers to these organizations' participation and interact with agency program offices to develop and coordinate department efforts to disseminate information more effectively to faith-based and community organizations with respect to programming changes, contracting opportunities, and other department initiatives.

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### Equal Treatment Regulations Set Forth Safeguards Applicable to Direct and Formula Federal Grants

As noted in table 1, Executive Order 13279 of December 12, 2002, directed designated federal agencies to establish safeguards for the participation of faith-based organizations in a broad set of federal social service programs, including mentoring, housing, and job training programs. Congress had previously enacted charitable choice provisions as part of the Temporary Assistance for Needy Families (TANF) program, Community Services Block Grant program, and the Substance Abuse Prevention and Treatment Block Grant several years earlier.<sup>10</sup>

To implement this executive order, federal agencies with centers for the faith-based and community initiative subsequently issued "equal treatment" rules. These rules apply to project grants awarded by the federal government to faith-based and community organizations, formula and block grants awarded to states where funds are passed down to these organizations, and other financial agreements.<sup>11</sup> These rules state that FBOs are eligible to participate in federal programs on the same basis as other private organizations, and include safeguards to protect the interests of FBOs, beneficiaries of social services, and government agencies providing funds (see table 2). For example, FBOs are not permitted to use direct federal funds for inherently religious activities such as prayer, religious instruction, worship, or proselytization. If an FBO conducts such activities, the activities must be separated by time or location from federally funded services or programs and must be voluntary for the beneficiary. However, they are allowed to retain religious art, icons, or

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<sup>10</sup>Charitable choice provisions were enacted for TANF as part of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, in the 1998 reauthorization of the Community Services Block Grant program, and in the amendments to the Public Health Service Act in 2000 affecting the Substance Abuse Prevention and Treatment Block Grant Program.

<sup>11</sup>The equal treatment rules also cover agency contracts and cooperative agreements.

symbols in the facilities where they provide services. In addition, for the programs in our review, FBOs generally are not prohibited under federal law from making employment decisions based on religious grounds, even after receiving federal funds.

**Table 2: Equal Treatment Safeguards and the Key Parties They Are Designed to Protect**

Safeguards	Government entities	FBOs	Beneficiaries
FBOs are eligible to compete for funding on the same basis as other nonprofit organizations.		X	
FBOs may not use direct government funds <sup>a</sup> to support inherently religious activities such as prayer, worship, religious instruction, or proselytization. Any inherently religious activities must be offered separately in time or location from services directly funded with government assistance and must be voluntary for participants.	X		X
FBOs retain control over their internal governance and do not have to remove religious art, icons, and symbols.		X	
FBOs cannot discriminate on the basis of religion or religious belief in providing services to clients.			X
FBOs generally retain the ability to make employment decisions on religious grounds, even after receiving federal funds. <sup>b</sup>		X	

Source: GAO analysis.

<sup>a</sup>This safeguard does not apply to federal funds provided indirectly to religious organizations. For example, it does not apply to funds that a provider receives as a result of an independent choice of a beneficiary, such as programs that provide vouchers to beneficiaries who then redeem the vouchers for services at a provider of their choice. Providers may offer voluntary religious activities without separation of time or location from the social service if beneficiaries are given a genuine choice between faith-based and secular service providers as part of indirect funding, such as a voucher program.

<sup>b</sup>There are exceptions to this protection as some programs, such as Workforce Investment Act programs and Head Start, currently contain statutory language that prohibits faith-based organizations receiving funds from making employment decisions on religious grounds. In addition, FBOs may be subject to state or local laws prohibiting discrimination in employment based on religion.

Charitable choice provisions enacted by Congress for the TANF and Substance Abuse Prevention and Treatment programs contain an additional safeguard that entitles clients who object to the religious character of a provider to receive services from an alternative provider to which the client has no religious objection. However, this safeguard is not part of the equal treatment rules agencies issued in response to the President's 2002 executive order and does not apply to other federal programs.

During the federal rule-making process for the equal treatment regulations, some interested parties expressed a need for greater clarity and

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safeguards in the proposed rules. For example, commenters stated that it was unclear which activities would be considered “inherently religious.” Agencies declined to clarify which activities would be considered inherently religious apart from the general examples provided in the agencies’ respective rules, noting the difficulty in establishing a list of such activities and that the Supreme Court has not comprehensively defined these activities.<sup>12</sup> Of the agencies we reviewed, most cited the Supreme Court decision of *Mitchell v. Helms* as support for the view that aid provided to religious institutions does not necessarily advance the institutions’ religious purposes and emphasized the secular nature of the federally funded services.<sup>13</sup> The regulations state that if a grantee engages in religious activities such as prayer, such activities must be voluntary for the beneficiary and the grantee must offer them separately in time or location from the programs funded with direct federal financial assistance.<sup>14</sup>

Some commenters on agencies’ equal treatment regulations also urged agencies to adopt additional assurances to prevent funds from being diverted for improper religious purposes.<sup>15</sup> However, in their final rules, agencies stated they found no basis for requiring additional assurances or greater oversight and monitoring of FBOs, as all participants must comply with all rules applicable to federal grants, including the equal treatment rules. In addition, they stated that agencies’ current monitoring and oversight practices for all grantees would be sufficient to ensure that federal funds are used for eligible activities.

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<sup>12</sup>See, *Participating in Justice Department Programs by Religious Organizations; Providing for Equal Treatment for All Justice Department Program Participants*, (Department of Justice Final Rule) 69 Fed. Reg. 2832 (2004).

<sup>13</sup>530 U.S. 793 (2000) (plurality opinion).

<sup>14</sup>See, for example, the Department of Justice regulation at 28 C.F.R. §38.2(b)(1).

<sup>15</sup>In her concurring opinion in *Mitchell v. Helms*, Justice O’Connor found private schools’ receipt of funding from the federal program at issue in that case (providing funds to state educational agencies to be used for instructional and educational materials) to be constitutionally acceptable in part because of the adequacy of the safeguards employed by the federal, state, and local governments to prevent diversion of federal program funds to religious purposes. These safeguards included signed assurances by the schools receiving the program funds, monitoring visits by the state and local educational agencies, and appropriate labeling of materials and equipment purchased with program funds.

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## Agencies Monitor Grantees Through Various Means, Including Desk Audits, Site Visits, and the Single Audit

Federal agencies monitor their grantees for programmatic and financial compliance. OMB provides general guidance, through Circular A-110, on the administration by federal agencies of grants to and agreements with nonprofit organizations.<sup>16</sup> OMB guidance also notes that the awarding agency may make site visits part of its monitoring procedures, but it does not require site visits or prescribe how many grantees should be visited or how often.

Nonfederal entities (i.e., state, or local government, or a nonprofit organization) that expend \$500,000 or more annually in federal awards are required to have a single audit conducted for that year. The Single Audit Act, as amended, replaced multiple audits of separate grant awards with one organizationwide audit.<sup>17</sup> Federal awarding agencies are responsible for such tasks as issuing a management decision on audit findings within 6 months after receiving the audit report and ensuring that the recipient takes appropriate and timely corrective action.<sup>18</sup> OMB Circular A-133 requires the auditor to report on compliance, and include an opinion by the auditor as to whether the entity complied with laws, regulations, and grant agreements. In addition, federal agencies provide specific audit guidelines for selected programs that direct the auditor to check for program-specific compliance requirements. For example, program-specific compliance requirements include a section on allowable and unallowable activities that detail what a grantee can and cannot do with federal funds in a particular program. For those programs that do not have program-specific guidelines, an auditor is to use the more general single audit guidance provided by OMB.

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<sup>16</sup>OMB Circular A-110 requires that the performance reports shall generally contain brief information, such as (1) a comparison of actual accomplishments with the goals and objectives established; (2) if appropriate, reasons why goals were not met; and (3) other pertinent information, such as an explanation of cost overruns. It also provides guidance on the type of information that should be included in the grantee's financial report.

<sup>17</sup>OMB Circular A-133 provides single audit requirements. It sets forth standards for obtaining consistency and uniformity among federal agencies for the audit of states, local governments, and non-profit organizations expending federal awards.

<sup>18</sup>See OMB Circular A-133 for other federal agency requirements that pertain to single audits.

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## Centers Employ Different Activities and Resources to Implement the Initiative

The five centers for faith-based and community initiatives that we reviewed employ a range of activities and resources to implement the initiative, in part based on what activities center officials believed was necessary to fulfill their responsibilities for the initiative and differences in staffing levels and administrative costs. Initially, the centers' activities focused on identifying and eliminating barriers to the participation of faith-based and community organizations in federally funded services. The centers' ongoing efforts include collecting data on FBOs' participation in agency programs, implementing pilot programs, and providing outreach and technical assistance to these organizations. The centers adopted different approaches to technical assistance training activities. The centers' future work will focus on encouraging partnerships between faith-based and community organizations and state and local governments, according to center officials. The centers estimated that they have cumulatively spent more than \$24 million on administrative activities, although their resource levels and administrative costs varied depending on the number of staff members and rent and travel costs.

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## Centers Have Acted to Remove Barriers to Faith-Based and Community Organizations, Collect Data, and Tailor their Outreach and Assistance Efforts to Meet the Agencies' Needs

Initially, the centers set out to identify and eliminate barriers to the participation of faith-based and community organizations in federally funded services. These barriers included regulations, rules, and outreach activities that either discriminated against or discouraged the participation of these organizations in federal programs. To identify barriers, the centers reviewed selected programs and gathered information on program eligibility and program regulations, among other things. Each center submitted a report to the White House with its findings, and in August 2001 the White House published the results of the centers' efforts.<sup>19</sup> Specifically, the report found that the centers identified barriers such as programs that excluded FBOs from applying for federal funds, confusion on the part of agency officials and FBOs about the ability of FBOs to consider religion in employment decisions, complex grant applications and agreements, and limited accessibility of federal grant information. Each center then issued equal treatment rules in 2004.<sup>20</sup> These rules were intended to help ensure that faith-based and community organizations could compete on the same basis as other organizations for federal funds while retaining their

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<sup>19</sup>The White House. *Unlevel Playing Field: Barriers to Participation by Faith-Based and Community Organizations in Federal Social Service Programs* (Washington, D.C., 2001).

<sup>20</sup>HUD issued equal treatment rules for eight programs administered by the HUD Office of Community Planning and Development in 2003; in 2004 HUD issued equal treatment rules applicable to all HUD programs.

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independence and protecting the rights of beneficiaries of social services. The adopted rules were largely identical across each agency.

Since 2003 the centers have collected data on, and WHOFBCI has reported on, funds awarded to FBOs in direct grant programs that allow faith-based and community organization participation.<sup>21</sup> The White House published the results for all five agencies for fiscal years 2003 through 2005, characterizing the information as a snapshot of federal grants awarded to FBOs. For the fiscal year 2005 data collection effort, the centers also obtained these data from state and local governments administering formula grants. The centers we reviewed each tracked funding to FBOs for one formula grant program within their agencies. The White House notes that because the majority of federal social service dollars are awarded through formula grants, such a review is critical for understanding the extent of FBO participation. Center officials noted that they do not have a standard definition to identify FBOs, leaving each center, some working with program offices, with the responsibility of identifying FBOs using a combination of methods. For example, a nonprofit organization that applies for federal funds may self-identify as a faith-based organization or a community-based organization as part of a voluntary survey that is included in grant application packages.<sup>22</sup> In cases where an organization elects not to complete this survey, center officials told us that program and center staff applied a number of other methods to identify organizations, including the review of information from grant applications, information provided by program staff familiar with the organization, Internet research, or name recognition.

Each center has also assisted in developing pilot programs within its agency to strengthen the partnership between faith-based and community organizations and federal agencies. In general, these programs provide services related to the policy focus of each agency. For example, Labor has pilot programs to build partnerships between faith-based and community organizations and the workforce system. Similarly, Education implemented a program to educate these organizations on how to become providers of supplemental educational services. Most of Labor's and HHS's

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<sup>21</sup>Center officials told us that they are now collecting data on community-based organizations. HUD and Justice officials stated that in 2005 they submitted data on community-based organizations to the WHOFBCI, and Labor officials told us that they reported this data to WHOFBCI several years ago.

<sup>22</sup>OMB No.1890-0014, "Survey on Ensuring Equal Opportunity for Applicants."

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pilot programs, as well as one of HUD's two pilot programs, represent new grant programs that either award funds directly to faith-based and community organizations or to intermediary organizations that help these organizations expand their services. In contrast, HUD's second pilot program and most of the pilot programs at Education and Justice do not provide funds directly to faith-based and community organizations or intermediaries. Education and HUD's programs provide information and technical assistance to these organizations to help them access federal funds or provide services, while Justice's pilot programs promote the participation of faith-based and community organizations in areas such as juvenile offender mentoring and fraud prevention.

In addition, the centers provide outreach and technical assistance activities to enhance the opportunities of faith-based and community organizations to compete for federal funding. To inform these organizations about the resources available to them, the centers engage in similar outreach activities such as posting grant and funding opportunities on center Web sites and disseminating information to these organizations via e-mail. However, the centers adopted different approaches to their technical assistance training activities. In general, HUD's and Education's centers help organizations learn how to apply for funds, while Labor's center helps grantees learn how to manage grants. Justice's and HHS's centers coordinate with program offices that provide these services. Center officials said their approaches to technical assistance were based on what they determined would best meet needs within their agency and fulfill their responsibilities to enhance opportunities for faith-based and community organizations. For example, HUD's center—citing the need to educate faith-based and community organizations on how to access resources to meet needs in their communities—has conducted a series of free grant-writing seminars for faith-based and community organizations since 2004. HUD has also designated staff in each of its regional and field offices to serve as faith-based and community liaisons and to provide outreach to these organizations. Education's center sponsors technical assistance workshops for faith-based and community organizations that provide information on the agency's grant opportunities as well as information on how organizations can become approved providers of supplemental educational services.

Labor's center reported that the large size of Labor's grant programs was an obstacle that prevented small grassroots organizations, including those that are faith-based, from participating in its programs. As a result, Labor's center officials said they tailored their outreach and technical assistance efforts to focus on providing assistance to smaller organizations to build

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their capacity to manage grants and to encourage partnerships between small grassroots organizations and the workforce system. For example, the Labor center sponsors technical assistance training for small faith-based and community organization grantees on how to manage grants and measure program effectiveness, among other things. In contrast to the centers at HUD, Education, and Labor, the Justice and HHS centers coordinate efforts with program offices that provide these services. Among these services are grant-writing seminars provided through the Substance Abuse and Mental Health Services Administration (SAMHSA) in HHS and the Office of Juvenile Justice and Delinquency Prevention in Justice. Center officials at the Justice and HHS centers told us that they adopted this approach to take advantage of efficiencies from working with program offices that provided these services prior to the creation of the centers.

According to center officials, the next phase of the centers' work will focus on encouraging the establishment of state and local government partnerships with faith-based and community organizations, as the majority of federal social service funds are distributed through formula grant programs administered at the state and local levels. OMB has directed each center to help implement an action plan to enhance the opportunities of faith-based and community organizations competing for federal funds provided through state and local governments, and to provide guidance to state and local officials on the equal treatment rules. The President has also encouraged states to create offices or liaisons to provide information and resources for faith-based and community organizations interested in partnering with state and local governments to provide social services. Thirty-two states have now established state offices or liaisons for faith-based and community organizations, according to the White House.

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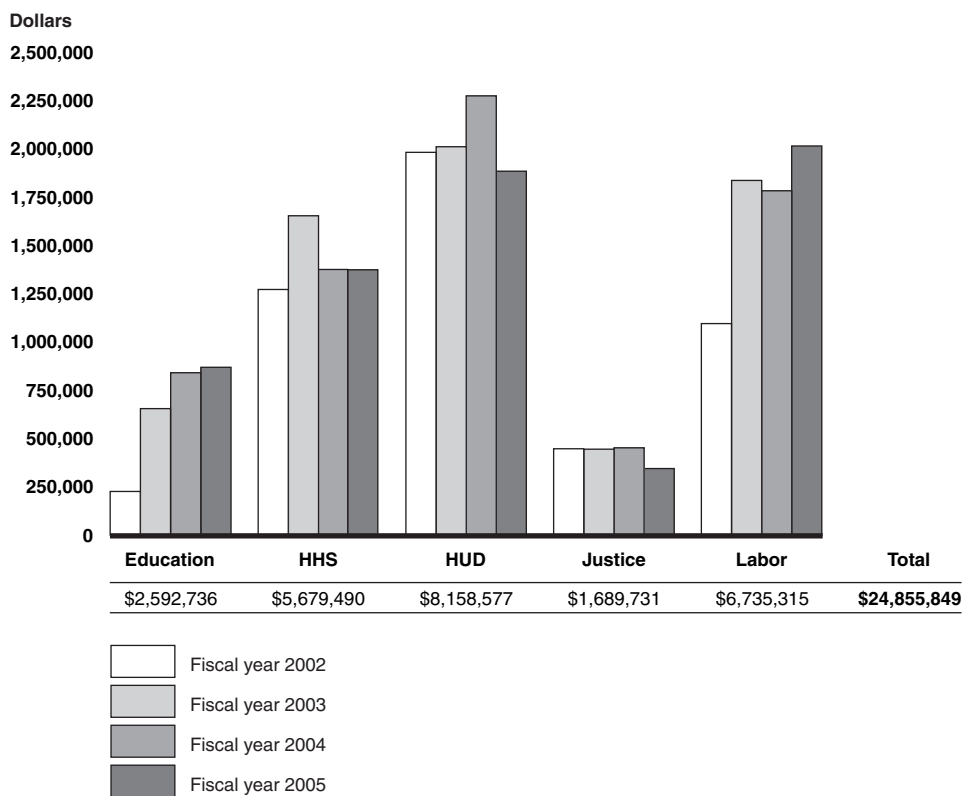
### **Five Federal Centers Cumulatively Spent \$24 Million since Fiscal Year 2002, but Their Funding Sources, Staffing Levels, and Administrative Costs Varied**

The five centers that we reviewed estimated that they cumulatively spent more than \$24 million on administrative activities related to the initiative since fiscal year 2002, although the level of resources and their application varied across the five centers. As shown in figure 1, centers in HHS, HUD and Labor spent between \$1 million and \$2.3 million annually, while centers in Education and Justice spent less than \$1 million annually. HHS, HUD and Labor's centers also had more staff in fiscal year 2005 than Education and Justice. In fiscal year 2005, HHS, HUD, and Labor had



between 7 and 9 staff members, while Education and Justice had 5.5 and 3 respectively.<sup>23</sup> In Labor, Education, and Justice’s centers, the majority of the center staff members were appointed rather than career staff.

**Figure 1: Estimated Expenditures of Centers for Faith-Based and Community Initiatives, Fiscal Years 2002 through 2005**



Source: GAO analysis of Education, HHS, HUD, Justice and Labor data.

Note: Figures adjusted for inflation. Education’s fiscal year 2002 amount covers the period from May 19, 2002, to September 30, 2002.

In fiscal year 2005, salaries and benefits of center staff members constituted the largest proportion of the funds spent in four of the centers,<sup>24</sup> ranging from 35 percent to 87 percent of their total

<sup>23</sup>Labor’s center had 7 staff members for the first three quarters of fiscal year 2005; it currently has 6 staff members, according to a Labor center official.

<sup>24</sup>Justice could not provide a detailed breakdown of its center’s expenditures.

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expenditures.<sup>25</sup> The centers' remaining expenditures went toward such administrative costs as rent, contractual services, travel, printing, and supplies. The centers' estimated expenditures, however, do not include other federal initiative-related expenditures, such as the administrative costs associated with program offices' efforts to assist faith-based and community organizations.<sup>26</sup> For example, Justice's Office of Juvenile Justice and Delinquency Prevention has allocated \$1.87 million since fiscal year 2003 to fund federal grant application training for community-based, faith-based, and other nonprofit organizations.

Funding for the centers comes from a variety of sources. Education's center receives its funding through the Office of the Secretary of Education and HUD's center receives its funding through HUD's salaries and expenses account, while Justice's and HHS's centers are funded through internal agencies such as the Office of Justice Programs in Justice and the Administration for Children and Families in HHS. Labor's center receives funds from both its agency's departmental management account and from program offices. In addition, although not required to, HHS has included information on funding for its center as part of its congressional budget requests for several years, while HUD and Labor have included similar information in past budget requests. These agencies have in turn received guidance from Congress in the past on the amount of resources to allocate to their centers. In contrast, Education and Justice have provided limited or no information on their centers' funding to Congress as part of their budget requests. In turn, these agencies have not received guidance from Congress on the amount of resources to allocate to their centers.

Differences in staffing levels and administrative costs account for, in part, the differences in centers' total expenditures. Staff compensation represented the largest category of center spending, and the centers with the largest number of staff spent the most on activities to implement the initiative.<sup>27</sup> Different administrative costs also accounted for some of the

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<sup>25</sup>See appendix I for a breakdown of estimated expenditures by the centers for fiscal year 2005.

<sup>26</sup>Labor's estimates did include funds expended for center activities done on behalf of internal agencies.

<sup>27</sup>Officials in the five centers we reviewed could not explain how initial staff and resource allocations were made, as many of them did not work in the centers when they were established in 2001.

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variation in the center resources. For example, in fiscal year 2005, HHS spent more on rent, communications, and utilities than HUD's center, while centers in Education and Labor did not report any expenses for these services.<sup>28</sup> Centers in HUD and Education spent more in travel expenses for fiscal year 2005 than the other centers we reviewed. These higher travel expenses were likely associated with the training and technical assistance workshops that these centers conducted across the country for faith-based and community organizations.

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**Agencies Use Same Grant Award Procedures for Faith-Based as Other Organizations, and Some New Grant Programs Established to Encourage More Faith-Based and Community Organization Participation**

Federal and state officials administering the 10 programs we examined told us that they do not treat FBOs any differently than other organizations during the grant award process. They use standard criteria to assess all applications for grant funds, and grant reviewers do not necessarily know if applicants are FBOs because an organization is not generally required to identify itself as an FBO when applying for funds. While the grant award process was similar for all organizations in the competitive programs we reviewed, since the beginning of the initiative, agencies have awarded over \$500 million through new competitive grant programs to provide training and technical assistance to faith-based and community organizations and to increase the participation of these organizations in providing federally funded social services. In its fiscal year 2007 budget request, the Administration requested increased funding for some of these programs.

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<sup>28</sup>HHS spent \$310,000 on rent, communications, and utilities in fiscal year 2005; HUD spent \$10,400 in fiscal year 2005 for the same services.

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## Faith-Based Organizations Compete for Funds on the Same Basis as Other Organizations

In the funding programs we examined, federal regulations require federal and state agencies to use the same processes to evaluate grant applications from FBOs as they do applications from other organizations.<sup>29</sup> When rating each application, reviewers for these programs used standard criteria and assigned numerical scores or other ratings to assess how well an application addressed the criteria.<sup>30</sup> Funding decisions are primarily determined by these rating scores, although other factors, such as geographical dispersion, may be taken into account. For example, selection criteria used to evaluate applications in one program included factors such as the quality of the project design, quality of project personnel, and quality of the project evaluation, with points assigned to each criterion. None of the programs we reviewed awarded points specifically for faith-based organizations. One of the programs in our review, Education’s Mentoring Program, awarded five points to “novice” organizations applying for mentoring funds in 2002. Novice organizations were defined as ones that had never received a grant from the program before and had not received a discretionary grant from any federal program for 5 years.<sup>31</sup> (See table 3 for a listing of the programs covered in our review.)

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<sup>29</sup>For a discussion of Education’s Office of Innovation and Improvement’s grant award process, see GAO, *Discretionary Grants: Further Tightening of Education’s Procedures for Making Awards Could Improve Transparency and Accountability*, [GAO-06-268](#) (Washington, D.C., Feb. 21, 2006). This review sampled all the grants in Education’s Office of Innovation and Improvement and found that Education generally adhered to its policies regarding competitions.

<sup>30</sup>One of the programs we reviewed was a contracting program in which federal officials review applications/bids—for the purposes of our discussion we treat it the same as the other programs. The competitive process used by Justice’s Bureau of Prisons to award community corrections contracts involves a selection board whose members rate proposals submitted by bidders on specific factors; bidders whose proposals receive the highest scores are awarded contracts. The equal treatment safeguards apply to contracts as well as direct competitive and formula grant programs.

<sup>31</sup>In Education’s 2004 Mentoring Program grant notice, the department announced that five points would be awarded to a consortium of eligible applicants that included local educational agencies, community-based organizations, or one private school that qualified as a nonprofit community-based organization.

**Table 3: Selected Federal Programs Providing Funding to Various Organizations, Including Faith-Based Organizations**

<b>Program</b>	<b>Agency</b>	<b>Type of funding</b>	<b>Purpose of program</b>
Mentoring Programs (Safe and Drug-Free Schools and Communities National Programs)	Education	Project grants	To promote mentoring programs for children of greatest need
Community-Based Abstinence Education Program <sup>a</sup>	HHS	Project grants	To provide funding to public and private institutions for community-based abstinence education project grants
Mentoring Children of Prisoners Program	HHS	Project grants	To award grants to organizations, including community and faith-based entities, to provide children of incarcerated parents with mentors
Microenterprise Development Program (Refugee and Entrant Assistance Discretionary Grants)	HHS	Project grants	To assist refugees in starting or expanding very small businesses
Abstinence Education Program	HHS	Formula grant program	To enable states to provide abstinence education and mentoring, counseling, and adult supervision to promote abstinence from sexual activity
Substance Abuse Prevention and Treatment Block Grant	HHS	Formula grant program	To provide financial assistance to states and territories to support projects for the development and implementation of programs directed at the prevention and treatment of alcohol and drug abuse
Continuum of Care (set of three programs: Supportive Housing Program, Shelter Plus Care, and Single Room Occupancy)	HUD	Project grants	To address the problems of homelessness in a comprehensive manner
Emergency Shelter Grants Program	HUD	Formula grant program	To improve the quality of emergency shelters and transitional housing for the homeless, to make additional shelters available, and to provide services to the homeless
Community Corrections Contracting	Justice	Competitive procurement program	To provide assistance to inmates who are near release and provide a structured, supervised environment and counseling, job placement, and other services
Small Grassroots Faith-Based and Community-Based Organizations Connecting with the One-Stop Delivery System (Small Grassroots Program)	Labor	Project grants	To expand the access of faith-based and community-based organizations' clients and customers to the services offered by local one-stop centers

Source: GAO analysis based on agency information.

<sup>a</sup>In 2005, the Community-Based Education Program was moved from HHS's Health Resources and Services Administration to HHS's Administration for Children and Families.

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Because applicants in most programs we examined are not required to identify themselves as FBOs, the grant reviewers do not necessarily know whether an applicant is an FBO.<sup>32</sup> A voluntary survey that may be submitted with the standard federal grant application asks the applicant, among other things, to self-identify whether it is a faith-based/religious organization or whether it is a nonreligious community-based organization. However, federal officials told us that this survey, if submitted by the applicant, is removed from the application, and is unavailable to the reviewers. Nonetheless, an organization's identity might be reflected in its name, or the organization might disclose its identity in its application, for example, when describing the history or mission of the organization.

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**New Programs Established since Initiative to Provide Training and Technical Assistance to Faith-Based and Community Organizations and Increase Faith-Based and Community Organization Participation**

In four of the agencies we reviewed, new programs have been created to provide training and technical assistance to faith-based and community organizations and to increase the participation of these organizations in providing federally funded social services. Some of these programs are the pilot programs established by the centers and program offices in response to the initiative. Between fiscal years 2002 and 2005, over \$500 million in competitive grants has been awarded through these programs.<sup>33</sup> Some of these programs, such as Labor's Prisoner Reentry Initiative, limit eligibility to faith-based and community organizations, while others, such as HHS's Compassion Capital Fund Demonstration Program, fund intermediary organizations that provide capacity-building assistance to faith-based and community organizations. (See table 4 for a list and description of these programs.)

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<sup>32</sup>The applications for the Continuum of Care programs ask a yes/no question on whether the applicant is a religious or a religiously affiliated organization.

<sup>33</sup>Funds awarded in fiscal year 2006 were not included because several agencies had not made grant awards for fiscal year 2006 at the time of our review.

**Table 4: New Grant Programs Intended to Encourage Faith-Based and Community Organization Participation in Federally Funded Social Efforts**

<b>Program</b>	<b>Agency</b>	<b>Start date of program</b>	<b>Total funds awarded through fiscal year 2005</b>	<b>Grantee/subgrantee eligibility</b>	<b>Grant purpose</b>
Access to Recovery <sup>a</sup>	Health and Human Services	2004	\$198,000,000	States, District of Columbia, territories, and tribal organizations	To provide client choice among substance abuse treatment and support service providers, expand access to an array of treatment and recovery support options, and increase substance abuse treatment capacity.
Compassion Capital Fund (CCF) Demonstration Grants <sup>a</sup>	Health and Human Services	2002	\$125,594,965	Nongovernmental organizations; Indian tribal governmental organizations; nonprofit agencies, including faith-based organizations, public agencies, state and local governments, colleges and universities, and for-profit entities	To help smaller organizations manage their programs effectively, access funding, train staff, expand programs in their communities, and replicate promising programs. Intermediary organizations receiving CCF grants also provide subawards to a diverse range of faith-based and community organizations.
Mentoring Children of Prisoners <sup>a</sup>	Health and Human Services	2003	\$100,047,432	States, localities, private, nonprofit, community and faith-based entities, and coordinated networks of such entities	To support the establishment or expansion and operation of programs to provide mentoring services for children of incarcerated parents.
Compassion Capital Fund Targeted Capacity-Building Program <sup>a</sup>	Health and Human Services	2003	\$22,587,556	Nonprofit, faith-based, and community organizations	To increase the capacity of faith-based and community organizations with a proven track record of serving the needs of at-risk or low-income individuals and families.
Ready4Work <sup>a</sup>	Labor/Justice	2003	\$21,700,000	Public/Private Ventures (non-profit organization) provides subgrants to lead agencies at 18 sites	To assist faith-based and community programs that provide mentoring and other transition services for men and women returning from prison.
Prisoner Reentry Initiative <sup>a</sup>	Labor/Justice/ HUD <sup>b</sup>	2005	\$19,840,000	Faith-based and community organizations	To reduce recidivism and re-incarceration by helping inmates find work when they return to their communities.
Grants for States for FBO/ Community-Based Organization Partnerships	Labor	2002	\$11,874,147	States	To increase the number of faith-based and community-based organizations serving as committed and active partners in the One-Stop delivery system.

<b>Program</b>	<b>Agency</b>	<b>Start date of program</b>	<b>Total funds awarded through fiscal year 2005</b>	<b>Grantee/subgrantee eligibility</b>	<b>Grant purpose</b>
Grants for Workforce Investment Boards for FBO/Community-Based Organization Partnerships <sup>a</sup>	Labor	2004	\$10,706,389	Workforce Investment Boards	To encourage the formation of long-term partnerships with faith-based and community organizations that meet community needs related to hard-to-serve populations.
Grants for Intermediaries for FBO/Community-Based Organization Partnerships	Labor	2002	\$9,661,191	Nonprofit, community, or faith-based organizations with connections to faith-based and community grassroots organizations	To increase the number of faith-based and community-based organizations serving as committed and active partners in the One-Stop delivery system.
Helping Outreach Programs Expand (HOPE)	Justice	2002	\$3,675,000	Faith-based and community organizations	To foster the development of grassroots crime victim service providers to expand both public visibility and outreach to victims, thereby increasing the number of available service providers.
Faith and Community-Based Juvenile Delinquency Treatment Initiative <sup>a</sup>	Justice	2003	\$3,500,000	One grant awarded to Florida Department of Juvenile Justice	To establish a multifaceted faith-based initiative to provide positive, caring adult relationships, and greater supervision and moral leadership as youthful offenders transition back into their communities.
Small Grassroots Faith-Based and Community-Based Organizations Connecting with the One-Stop Delivery System (Small Grassroots Program) <sup>a</sup>	Labor	2002	\$3,408,981	Local nonprofit social service organizations with \$350,000 or less in annual revenues or fewer than six employees	To provide workforce services to specific populations or provide particular services not currently provided through the One-Stop delivery system; expand the access of faith-based and community-based organizations' clients and customers to the services offered by the local One-Stops; and establish methods and mechanisms to ensure sustainability of these partnerships.
Helping Outreach Programs to Expand II (HOPE II)	Justice	2005	\$3,000,000	Faith-based and other community organizations that will provide subgrants to grassroots, faith-based, and community organizations to serve crime victims while also building their capacity.	To increase the development and capacity of faith-based or community-based organizations to respond to underserved victims in high-crime urban areas.



Program	Agency	Start date of program	Total funds awarded through fiscal year 2005	Grantee/subgrantee eligibility	Grant purpose
Rural Domestic Violence and Child Victimization Enforcement Grant Program Special Initiative: Faith-based and Community Organization Pilot Program <sup>a</sup>	Justice	2005	\$1,024,965	Community organizations (nonprofit, private entities) of rural states and faith-based organizations of rural states (nonprofit, private entities). Private entities of nonrural states that are members of or central offices of national organizations may consider applying through an affiliated organization located within a rural state. <sup>c</sup>	To increase the level of services available to rural victims of domestic violence by increasing the number of first-time, grassroots faith—and/or community-based organizations receiving Office of Violence Against Women funding and technical assistance in rural America.
Enhancement of Public Housing HOPE VI Communities through Mentoring Demonstration Program <sup>a</sup>	HUD	2005	\$524,578	Public housing authorities with HOPE VI Revitalization grants will partner with grassroots, faith-based and other community-based organizations.	To determine if providing mentoring services to residents already participating in self-sufficiency programs increases their likelihood of achieving self-sufficiency.
Clergy Against Senior Exploitation (CASE) <sup>a</sup>	Justice	2002	\$273,614	One grant awarded to Denver, Colorado, district attorney's office	To partner with faith communities in addressing the issue of elder fraud in Denver County.

Source: GAO analysis based on information on the White House Office of Faith-based and Community Initiatives Website and agency documents.

Note: This table does not include programs that provide only technical assistance and not grant funds to faith-based and community organizations, such as Education's Supplemental Educational Services and HUD's Grant Writing Training program.

<sup>a</sup>Denotes a pilot program identified as such by Centers for Faith-Based and Community Initiatives staff.

<sup>b</sup>As of April 2006, Justice and HUD had not disbursed any funding under the initiative.

<sup>c</sup>Grantees act as intermediaries and offer subgrants and technical assistance to small, faith-based or community organizations with less than 10 full-time employees, an annual domestic violence budget less than \$100,000, and an overall annual operating budget less than \$350,000.

The President proposes \$323 million in funds in his 2007 budget submission—a 36 percent increase from what was enacted in fiscal year 2006—for five programs in order to foster faith-based and community organization participation.<sup>34</sup> The President's budget proposes an increase

<sup>34</sup>Compassion Capital Fund, Access to Recovery, Mentoring Children of Prisoners, Prisoner Reentry Initiative, and the President's HIV/AIDS Initiative.

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in funding for the Compassion Capital Fund from \$64 million to \$100 million and the Prisoner Re-entry Initiative funding from \$26 million to \$60 million. In an effort to encourage more participation by faith-based and community organizations in combating the spread of HIV and AIDS, the President proposed new funding for an outreach program to the African-American community.

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## Government Agencies Generally Provide Grantees with Information on Safeguards, but Most Do Not Have Procedures in Their Monitoring Guidelines for Assessing Compliance

Most of the 10 federal program offices that we reviewed included an explicit statement in their grant documents explaining that FBOs cannot use direct federal funds for inherently religious activities<sup>35</sup> However, less than half of program offices provided a similar statement explaining that organizations may not discriminate against beneficiaries based on religion or explaining the permissible hiring practices for FBOs. Most of the grant documents related to these two safeguards provided only a reference to federal or program regulations, and a few program offices provided no information on the nondiscrimination and hiring safeguards. In general, state and county offices in the four states we visited provided information on the safeguards to their formula grant awardees, although in several cases they provided incorrect information on whether FBOs may make hiring decisions on the basis of religion. While officials in all 26 of the FBOs that we visited told us that they understood that federal funds could not be used for inherently religious activities, officials at several organizations appeared to have misunderstood the safeguard that religious activities may only be conducted at a separate time or in a separate location from federally funded services. Few government agencies administering the programs we reviewed monitor organizations to ensure compliance with these safeguards, and the single audit, which is used to monitor organizations receiving a certain level of federal funding, generally does not include checks for these safeguards.

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<sup>35</sup>We reviewed a program's latest grant announcement and grant application for references to the safeguards on inherently religious activities, nondiscrimination of program beneficiaries, and FBOs' permissible hiring practices. We also requested from agency officials any additional guidance that they provided to applicants or grantees related to the use of grant dollars.

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**Most of the Federal Programs We Reviewed Provided Grantees with a Statement on Nonallowable Activities, but Fewer Provided Information on Other Safeguards**

Seven of the 10 programs that we reviewed provided grantees with an explicit statement in one or more of their grant documents that federal funds for that program could not be expended for “inherently religious activities.” Most statements noted that organizations receiving direct federal funds cannot engage in inherently religious activities, such as worship, religious instruction, or proselytization as part of program services directly funded with federal funds. For example, Labor sent state workforce agencies a guidance letter in July 2005 reiterating its equal treatment rules and directing the agencies to develop policies and procedures to implement the safeguards. HUD also issued a memorandum to state agencies reiterating its equal treatment rules pertaining to Emergency Shelter program grantees. Table 5 summarizes the extent to which information on each of the safeguards was included in programs’ grant documents.

**Table 5: Extent to Which Safeguards Are Included in Program Grant Documents**

Safeguards stated in federal documents to grantee <sup>a</sup>	Prohibition on inherently religious activities unless separate in time or location from federally funded programs or services	Prohibition on discrimination against clients based on religion	Provision explaining permissible hiring by FBOs
<b>Agency/program</b>			
<b>Federal Project and Contract Grants</b>			
Education/Mentoring Programs	●	●	●
HHS/Community- Based Abstinence Education Program <sup>b</sup>	■	●	●
HHS/Mentoring Children Of Prisoners	■	●	●
HHS/Microenterprise Development Program	■	□	□
HUD/Continuum of Care Program <sup>c</sup>	■	■	■
Justice/Community Corrections Contracting	<sup>d</sup>	●	●
Labor/Small Grassroots Program	■	■	■
<b>Formula Grants</b>			
HHS/Abstinence Education Program	■	■	□
HHS/Substance Abuse Prevention and Treatment Block Grant Program	●	●	●
HUD/Emergency Shelter Grants	■	■	■

Key: document

- = provides statement in one or more of the following documents: grant application, announcement, or guidance documents
- = cites regulations
- = makes no reference to these safeguards

Source: GAO analysis based on review of agency documents.

<sup>a</sup>Documents include grant announcements, applications, award letters, and any additional guidance sent to grantees.

<sup>b</sup>Safeguards were stated more clearly in HHS's Health Resources and Services Administration's 2003 and 2004 applications, which included an advisory memo and a questions and answers section. Advisory and question section was not included in HHS's Administration for Children and Families' 2006 application package. However, the program's application and grant award letter include a reference to the prohibition on inherently religious activities.

<sup>c</sup>HUD's notice to agency and field office directors providing guidance to Continuum of Care grantees covered by HUD's 2003 equal treatment regulations expired September 2005.

<sup>d</sup>Justice officials told us that this safeguard does not apply to Community Correction Contracting programs and therefore the agency did not include it in the program's contract documents. See discussion below.

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We found no reference to the prohibition on inherently religious activities in Justice’s Community Corrections Contracting program.<sup>36</sup> Justice officials advised us that, under their equal treatment regulations, they believe that FBOs providing services in Community Corrections Centers (also referred to as halfway houses that allow inmates to leave the centers for religious services) are exempt from the prohibition related to inherently religious activities and therefore the agency does not include any reference to the prohibition in the contract documents for this program. The regulations provide that the restrictions on inherently religious activities do not apply where funds are provided to chaplains or organizations assisting chaplains in certain settings such as community correction centers.<sup>37</sup> According to these officials, given the duty to accommodate inmates’ rights to religious exercise, all FBOs providing services are essentially viewed as “assisting chaplains” and fall within the exception. Accordingly, Justice officials believe it is appropriate not to include any reference to the restriction on inherently religious activities in the contract documents for community correction centers.

We believe that the failure by Justice to include any reference to this restriction could create uncertainty for FBOs. For example, the omission could be read as allowing all providers of social services in these settings to engage in worship, religious instruction, or proselytization, regardless of whether the services assist chaplains or whether the religious activities are voluntary on the part of the participant. In other words, the scope of the exception for assisting chaplains is left uncertain and FBO program staff may not understand whether, to what extent, or under what circumstances, they may engage in religious activities using federal funds.

As table 5 shows, 4 of the 10 programs that we reviewed included an explicit statement in grant documents that grantees must not discriminate against beneficiaries on the basis of their religion. In contrast, most of the other programs refer applicants and grantees to either their agency’s equal treatment regulations or program regulations that contain this safeguard. For example, HHS’s Community-Based Abstinence Education program

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<sup>36</sup>Community Corrections Contracting includes both Community Corrections Centers and Comprehensive Sanctions Centers. Bureau of Prison officials told us that while the Comprehensive Sanctions Centers have a more structured system for granting inmates access to the community, the process of contracting for and monitoring of these two programs is the same. Our interviews with FBOs included one that operated a Community Corrections Center and another that operated a Comprehensive Sanctions Center.

<sup>37</sup>See 28 C.F.R. 38.1(b)(2).

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refers the applicant to the agency's equal treatment regulations, and SAMHSA's Substance Abuse Prevention and Treatment Block Grant Program refers states to its charitable choice regulations. The Mentoring Children of Prisoners Program added a reference to HHS's equal treatment regulation in its June 2006 announcement. However, we found that in some instances, the cited regulations contained out-of-date information on this safeguard. For example, HHS's Mentoring Children of Prisoners and Microenterprise Development Programs' Standard Terms and Conditions (attached to the grant award) cited a Web address for 2003 regulations that did not contain the equal treatment safeguards.

Programs provided the least information on whether FBOs are permitted to make hiring decisions based on religion. Of the 10 federal program offices that we reviewed, only 3 provided information in grant documents about religious organizations' hiring of employees that share their religious beliefs. Five other programs referred applicants or grantees to the equal treatment regulations, and 2 provided no reference to FBO hiring in their grant documents. In addition, Justice's contract for its Community Correction Centers contains a reference to a clause that cites an executive order that does not apply to FBO contractors and thus provides incorrect information on FBO hiring.<sup>38</sup> The one program in our review—Labor's Small Grassroots Program—that is governed by statutory language prohibiting FBOs from making employment decisions on religious grounds, includes information in its program grant documents explaining the prohibition.<sup>39</sup>

The 7 competitive project and procurement grant programs differed with respect to whether they provided any training for new grantees on the safeguards. Five program offices provided training to grantees that included a discussion of the safeguards, while two did not. Officials from 2 of the formula grant programs in our review explained how some state officials received training on the safeguards. An HHS official with the Abstinence Education formula grant program told us that state officials attended the February 2006 conference offered to new grantees for the

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<sup>38</sup>Executive Order 13279 amends section 202 of Executive Order 11246 so that the prohibition on religious hiring does not pertain to a government contractor or subcontractor that is, among other entities, a religious corporation.

<sup>39</sup>Labor's Small Grassroots Program is governed by statutory language prohibiting FBOs from making employment decisions on religious grounds for positions that administer or are connected with the program or activities that receive Workforce Investment Act assistance.

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Community-Based Abstinence program and were given the opportunity to attend breakout sessions that focus on compliance with the equal treatment safeguards. SAMHSA officials told us that they hold sessions during the semiannual conference that directly discuss charitable choice regulations. Applicants and grantees interested in learning about the safeguards could also obtain access information on an agency's Center for Faith-Based and Community Initiatives Web sites.

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**State and County Agencies Provide Grantees Information on Allowable Activities and Nondiscrimination of Clients, but Several Provided Grantees with Incorrect Information on FBO Hiring**

For the three formula grant programs we reviewed, the grant program documents that state and county agencies provide to applicants and grantees contain information on allowable activities and nondiscrimination of beneficiaries and, in general, provide more explicit information on these two safeguards than the federal agencies. In addition, like federal program offices, state and county program offices in the four states we visited provided little information on FBO hiring, or in several cases, provided incorrect information. For example, we found that state and county offices in two states that administer the Substance Abuse Prevention and Treatment Block Grant and Abstinence Education program provided documents to grantees that included incorrect information on whether FBOs could hire based on religion. In one case, county officials acknowledged that they provided documents that contradicted one another on FBO hiring. They explained that one provision of their state contract says that organizations cannot discriminate in hiring, while another provision cites charitable choice hiring rules.

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**Some FBOs We Visited Did Not Appear to Understand the Requirement for Separation in Time or Location for Religious Activities and the Safeguard Pertaining to Hiring by Religious Organizations**

Four of the 13 FBOs that we visited that provided voluntary religious activities for beneficiaries did not appear to adhere to the requirement to separate in time or location religious activities from program services funded with direct federal funds. In addition, 13 of the 26 did not understand the safeguard that pertained to permissible hiring on the basis of religion. On the basis of our discussions with FBO officials, we did not find any indications that FBOs did not serve a beneficiary based on a beneficiary's religious beliefs.

While officials in all 26 FBOs that we visited told us that they understood the prohibition on providing inherently religious activities with direct federal funds, 4 described engaging in activities that appear not to be permissible with federal funds under the equal treatment rules. For example, officials from 2 of these FBOs told us that they would pray with beneficiaries at the beneficiary's request. While voluntary prayer is

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permissible as long as it is offered separately in time or location from program activities conducted with direct federal funds, these officials indicated that they conducted prayer at the same time and location as their federally funded services.<sup>40</sup> In addition, an official from another FBO said that he began each program session, which provided services to children, with a nonsectarian prayer that at times included a brief reading from the Bible. Finally, one FBO program manager told us that she discussed religious issues during the same time and at the same location as federally funded services if requested by a participant and no other participants objected.

One program office has taken action to better define the separate in time or location requirement. Included as part of the settlement of a lawsuit that arose from the agency's funding of a faith-based sexual abstinence education program was a set of "Safeguards Required" drafted by HHS's Community-Based Abstinence Education Program office for the grantee. This document was intended to provide guidance to the grantee for operation of the program in compliance with existing law and regulations, and included a detailed explanation of ways in which the grantee's activities might be separated in time or location. As of March 2006, HHS was considering providing similar information to all grantees to more clearly delineate how an organization could separate its religious activities from those provided with federal funds, according to the abstinence education program director.

Some FBOs are also confused about the safeguard related to hiring by religious organizations. Only half of the 26 FBOs that we visited correctly understood whether they could take religion into account when hiring staff. In general, FBOs that were prohibited by program legislation or state law from considering religion when making employment decisions understood the hiring safeguard. For example, 8 of the 9 FBOs that we visited in Ohio understood that the state had a statute that prohibits discrimination in employment based on religion.<sup>41</sup> In addition, Labor's Small Grassroots Program is governed by statutory language that prohibits

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<sup>40</sup>The preambles to most agencies' published equal treatment regulations note that while the Supreme Court has not comprehensively defined inherently religious activities, the Court considers prayer and worship to be inherently religious. See, for example, the Department of Justice's final rule at 69 Fed. Reg. 2832, 2834.

<sup>41</sup>See Ohio Rev. Code Ann. sec. 4112.02 (2006). The Ohio statute does not specifically include an exemption for religious organizations.



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organizations from hiring based on religion. Program officials with 3 FBOs that had received funding from this program told us that they do not hire based on religion, and 2 of the 3 noted that the hiring safeguard was discussed during Labor’s grantee training. Most of the 13 FBOs that did not correctly understand the hiring safeguard were unaware that they could consider religion when making employment decisions.

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### Program Offices Are Not Required to Monitor FBO Grantees Differently than Other Grantees, and Few Program Offices in our Review Include References in their Monitoring Guidelines on Compliance With Safeguards

Federal and state program offices are not required under federal requirements to monitor FBO grantees any differently than secular organizations, and in our review, few program offices use monitoring tools that include checks for compliance with these safeguards. Federal agencies monitor grantees for compliance with program regulations primarily through such monitoring activities as desk audits, site visits, and single audit compliance reviews. However, many faith-based and community organizations may not be covered by the single audit because they do not expend \$500,000 or more in federal funds in a given year. Further, for those FBOs that do meet this financial threshold, single audit guidelines do not generally instruct auditors to check for compliance with the equal treatment safeguards.

### Program Offices Monitor Grantees Primarily through Desk Audits and Site Visits

Federal program offices monitor grantees by reviewing financial reports (standard reports that collect data on grantee disbursements) and performance reports that grantees submit. Program officials told us that they review these reports to identify any financial or programmatic issues that may require them to do additional follow-up with the grantees. Performance reports focus on programmatic issues and collect information on the number of beneficiaries served and program outputs. None of the reports that we reviewed contained any questions related to compliance with the safeguards.

Program offices also monitor grantees for compliance with program rules through site visits. Many federal officials told us that they use a risk-based approach when determining which sites to visit. Several program officials told us that they do not single out FBOs for site visits and do not consider them at higher risk for noncompliance than other organizations. Grantees often selected for visits include ones that receive high dollar grants, novice grantees, grantees that have had prior problems, and grantees with high staff turnover. Program officials typically use written monitoring guidelines or site visit protocols when conducting site visits.

We found that only 2 of the 7 federal direct programs had monitoring guidelines that contained any reference to the equal treatment safeguards,

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and one program—established in 2002—had not yet developed a monitoring tool. HHS’s Community-Based Abstinence Education Program recently developed a monitoring tool that includes a question on whether the project is being implemented “in a manner consistent with all other Federal requirements (e.g., faith-based issues, civil rights, etc.)” and whether the grantee is “aware of the regulations regarding the use of federal funding for inherently religious activities.” Similarly, Labor’s monitoring handbook contains a general reference to avoiding client discrimination, but does not include a discussion of compliance with the safeguards. An HHS Mentoring Children of Prisoners program official told us that the program office had not yet developed a monitoring tool for its mentoring program.

The number of site visits conducted by program offices varied widely. Officials noted that the number of grantees in a given program affects how frequently their staff can conduct site visits. A Labor official in a field office told us that Labor officials try to visit all Small Grassroots Program grantees at least once during the span of the grant. HUD officials noted that visiting 10 percent of all grantees annually amounted to about 600 visits in 2004, and an Education official noted that visiting 5 percent of grantees had become increasingly difficult as the number of grantees grew each year. Since its move to HHS’s Administration for Children and Families from the agency’s Health Resources and Services Administration in 2005, the Community-based Abstinence Education program has conducted two site visits. The program’s director said he hopes his office will complete around 20 in 2006, but that he would like to visit all grantees at least once during their 3-year grant period.<sup>42</sup>

State and county agencies are responsible for monitoring grantees of federal formula grants. Similar to federal agencies, state and county officials in the four states we visited conduct desk audits of grantees and conduct site visits to a limited number of organizations. Many use risk assessment to determine which grantees to visit while others attempt to visit all grantees within a certain time frame. Only 5 of the 13 state or county program offices we visited included a reference to the prohibition on using direct federal funds for inherently religious activities or services. Georgia’s monitoring tool for its Emergency Shelter Grants program states that housing and services are to be provided in a “manner that is free from

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<sup>42</sup>According to Health Resources and Services Administration officials, their office did not conduct any site visits during the 4 years they administered the program.

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religious influence,” and its abstinence education performance and outcome scorecard has a space for organizations to indicate that their “curriculum does not teach or promote religion.” Similarly, Texas’ abstinence education on-site evaluation report includes as one of its review criteria a check to ensure that direct federal funds are not used for sectarian worship, instruction, or proselytization. In addition, the monitoring manual for Sacramento County, California, includes a check to ensure that grantees include in their program policies and procedures information on the requirement that FBOs certify that they will comply with all the requirements of SAMHSA’s charitable choice provisions and implementing regulations.

Single Audits Are Also Used to Monitor Grantees, but Guidelines Do Not Consistently Reference Safeguards

Program offices also use the single audit to monitor recipients that expend \$500,000 or more in federal funds in a fiscal year. OMB provides specific audit guidelines for some programs. While three programs we reviewed—the Substance Abuse Prevention and Treatment Block Grant Program, Emergency Shelter Grants, and the Continuum of Care Supportive Housing Program—have program-specific guidance, they varied on whether and how they included information on the equal treatment regulations.<sup>43</sup> For example, single audit guidance for the Substance Abuse Prevention and Treatment Block Grant Program provided the auditor with audit steps related to the equal treatment provision prohibiting organizations from expending direct federal funds on inherently religious activities, while Emergency Shelter Grant guidance refers the auditor to the program regulations that discuss what faith-based organizations can and cannot do with direct federal funds. In contrast, the single audit guidance on HUD’s Supportive Housing Program contains no reference to the prohibition on using direct federal funds for inherently religious activities.

The other 7 programs we reviewed do not have OMB program-specific audit guidelines. OMB’s single audit guidelines used for programs that do not have program-specific guidelines also contain no reference to the prohibition on using direct federal funds for inherently religious activities. Instead, OMB’s general guidelines direct auditors to refer to grant documents or laws and regulations to determine which activities are

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<sup>43</sup>We also reviewed all the programs cited in the White House Faith-Based and Community Initiatives Report *Grants to Faith-Based Organizations FY 2004* to ascertain how many of these programs had program-specific single-audit compliance guidelines. Out of the 81 programs that are administered by the five agencies in our review, we found that 12 had program-specific guidelines.

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allowed or unallowed with federal funds. We interviewed three independent auditors, who told us that unless these safeguards were referenced in the single audit guidelines or included in grant documents—which typically outline the key provisions of the grant—an auditor would not likely test for compliance with these provisions. Two auditors we interviewed noted that they did not check for the safeguards because the safeguards were not referenced in the single audit guidelines for HUD’s Continuum of Care and, at that time, SAMHSA’s Substance Abuse Prevention and Treatment Block Grant Program, the two programs administered by the FBOs they audited. The other auditor, who had recently audited an FBO that had received an Abstinence Education grant, told us that he had developed his own audit plan by reviewing the grant application package. He explained that because he readily found a reference in the application to the prohibition on providing inherently religious activities, he was able to discuss with the program manager how this issue was conveyed to program staff and reviewed written feedback from the students to ascertain whether any religious discussions had occurred while staff were providing federally funded services.<sup>44</sup>

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<sup>44</sup>The auditor did not find any indication that the FBO had violated the prohibition on inherently religious activities.

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## OMB and WHOFBCI Assess Agencies' Progress in Implementing Initiative, but Data Limitations and a Lack of Information May Hinder Ability to Measure Progress toward Achieving Initiative's Long-Term Goals

OMB and the White House Office of Faith-Based and Community Initiatives (WHOFBCI) assess agencies' progress in implementing the initiative and highlight this progress through a number of published vehicles.<sup>45</sup> However, the federal government's efforts to assess the initiative's progress in achieving its long-term goal of greater participation may be hindered by the accuracy of data collected on the number of FBOs receiving federal grants because the government has not established consistently applied criteria for what constitutes a faith-based organization and has not required organizations to self-identify as such. Moreover, little information is available to assess agencies' progress toward the long-term goal of improving participant outcomes because outcome-based evaluations for most pilot programs have not yet been completed. In addition, OMB faces other challenges in measuring and reporting on agencies' progress in meeting the two long-term goals of the initiative.

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## OMB and WHOFBCI Grade Agencies' Progress in Implementing the Initiative by Assessing Their Progress on Several Activities

Through the President's Management Agenda (PMA) issued in 2001, OMB identified expected short-term, intermediate, and long-term results or goals for the initiative.<sup>46</sup> OMB and WHOFBCI assess and track agencies' implementation of the initiative by using the Executive Branch Management Scorecard, a traffic-light system showing agencies' grades on their efforts to carry out activities in accordance with the initiative's *Standards for Success*. Developed in 2003, the initiative's *Standards for Success* describe expectations on the progress agencies are making in implementing certain responsibilities for the initiative, such as collecting accurate data on the participation of faith-based and community organizations and conducting outcome-based evaluations of pilot programs. Center officials at the agencies that we reviewed told us that they are focusing their efforts on implementing the standards for success and achieving the short-term goals of the initiative. Specifically, they are working on "leveling the playing field" for faith-based and community

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<sup>45</sup>In May 2006, OMB published on its Web site the *Standards for Success* used to gauge the progress agencies are making in implementing the initiative.

<sup>46</sup>Through the PMA, OMB has emphasized improving government performance through five governmentwide goals and a number of agency-specific initiatives, one of which is the Faith-Based and Community Initiative.

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organizations to compete for federal funds. Table 6 specifies OMB's green and yellow standards for success for the initiative, and appendix III lists the best practices that are referenced in the *Standards for Success*.

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**Table 6: OMB's Green and Yellow Standards for Success for Executive Agencies with Centers for the Faith-Based and Community Initiative**

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GREEN Standards for Success

Agency:

1. Has implemented a comprehensive outreach and technical assistance strategy for enhancing opportunities of faith-based and community organizations (FBCO) to compete for federal funding, including working with state and local officials to expand access to Federal funding awarded through them. This strategy employs 12 of 15 best practices;
2. Regularly monitors compliance with the equal treatment regulations at the State and local levels, promptly addresses violations once they are detected, and has a process in place to ensure that compliance information is used to inform future funding. Compliance monitoring activities include 10 of 13 best practices;<sup>a</sup>
3. Collects accurate and timely data on participation of FBCO and other applicants, including government entities, in selected Federal non-formula grant programs and has taken steps to expand data collection efforts to formula grant programs and make them a routine part of program administration. Programs are working to make this information accessible to the public;
4. Implements pilot programs to strengthen the partnership between FBCO and the Federal government to deliver services and inform implementation of the Initiative, and expands the use of pilots to test new strategies when appropriate; AND
5. Undertakes outcome-based evaluations of its pilot programs where FBCO participate, provides quarterly progress reports and interim results to the WHOFBCI throughout the life of the program, and builds an evaluation component into new pilots. Incorporated FBCO component into broader program evaluations when appropriate.

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YELLOW Standards for Success

1. Has developed a comprehensive outreach and technical assistance strategy for enhancing opportunities of faith-based and community organizations (FBCO) to compete for federal funding, including working with state and local officials to expand access to Federal funding awarded through them, and has begun to implement the plan. This strategy employs 8 of 15 best practices;
2. Has taken steps to ensure barrier free access for FBCO to the Federal competitive grants process. These steps include 7 of 15 best practices;
3. Has established procedures to collect data on participation of FBCO in selected Federal programs;
4. Has implemented pilot programs to strengthen the partnership between FBCO and the Federal government to deliver services; AND
5. Has undertaken outcome-based evaluations of its first set of pilot programs and has provided progress reports to WHOFBCI.

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Source: OMB.

<sup>a</sup>For compliance monitoring activities, only 3 of the best practices pertain to monitoring whereas the other 10 best practices involve activities to inform faith-based and community organizations, state and local officials, and others about the regulations.

OMB and WHOFBCI grade agencies both on current status and on progress in implementation. OMB and WHOFBCI award an agency with a green status if it meets all of the yellow and green standards for success, yellow if it has achieved the yellow but not all of the green standards for success, and red if the agency fails to meet any one of the yellow standards. OMB and WHOFBCI assess each agency's progress on a

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quarterly basis, and according to OMB officials, they use this performance information to identify problems and to develop corrective actions.

Of the five agencies that we reviewed, three agencies have a green status (Education, Justice, and HUD), and two have a yellow status (Labor and HHS) for current status during the first 2006 rating quarter. These agencies received a green status for progress in implementation for the rating quarter except HUD, which was downgraded to a yellow status from the previous rating quarter. OMB and agencies publish these summary scores in a number of places, such as in OMB and agency budget and performance documents as well as on their respective Web sites. According to OMB and some center officials, OMB negotiates with the agencies on a quarterly basis to set milestones that agencies must meet to maintain their green status.

The OMB Web site contains the *Standards for Success* for achieving the PMA's five governmentwide goals,<sup>47</sup> as well as the standards for the initiative. It lists the agencies that have performed best in meeting the individual standards for success (i.e., getting to green) for the goals.

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### Efforts to Measure Agencies' Progress toward Achieving Initiative's Long-term Goals Is Hindered by Data Limitations and Lack of Information

Although OMB's scorecard highlights agency progress in implementing the initiative, there are difficulties in assessing progress towards the two long-term goals for the initiative specified in the PMA. Efforts to assess the progress in achieving the initiative's long-term goal of increasing participation of faith-based and community organizations is hindered in part by difficulties agencies encounter in attempting to determine whether or not an organization is faith-based. Further, assessing achievement toward the other long-term goal of improving participant outcomes is hindered because agencies have not completed most of the OMB-required outcome-based evaluations of their pilot programs. In addition to the issues already noted, OMB and the WHOFBCI face other challenges in measuring and reporting on agencies' progress in meeting the broad long-term goals of "greater participation of faith-based and community organizations" and "improved participant outcomes."

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<sup>47</sup>The five governmentwide goals under the PMA are (1) strategic management of human capital, (2) competitive sourcing, (3) improved financial performance, (4) expanded electronic government, and (5) budget and performance integration.

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## Data Issues Affect Efforts to Measure Progress of Agencies in Meeting Long-Term Goals

As set forth in the PMA, one of the long-term goals of the initiative is for federal agencies to facilitate greater participation of faith-based and community organizations in providing federally funded social services. Although the Administration has not defined a “faith-based and community organization” or a “faith-based organization,” it directs the centers for faith-based and community initiatives to collect data on federal grants awarded to FBOs and community-based organizations. The WHOFBCI has published data on FBOs for all five agencies for fiscal years 2003-2005. In March 2006, the WHOFBCI reported that in fiscal year 2005 the federal government awarded, through seven federal agencies, more than \$2.1 billion in competitive social service grants to FBOs—an increase of 7 percent over the previous year. The WHOFBCI also reported that between fiscal years 2003 and 2005, grants to FBOs increased by 38 percent and funding increased by 21 percent.

The WHOFBCI’s report states that federal agencies make good-faith efforts to collect accurate data on grants awarded to FBOs, and we also found that agencies are making significant efforts to collect this data. However, they face constraints in collecting accurate data. Specifically, the government has not established criteria for what constitutes a faith-based organization that all federal agencies must use, and federal agencies do not require organizations to self-identify as faith-based. Although no method can ensure that all data collected are accurate, having consistently applied criteria or requiring self-identification would provide greater assurance that agencies are collecting accurate data than the current method.<sup>48</sup> In addition, the WHOFBCI has not reported on grants awarded to community-based organizations. Consequently, it is unclear whether the reported data provide policymakers with a sound basis to assess the progress of agencies in meeting the initiative’s long-term goal of increasing participation of faith-based and community organizations.

As we’ve previously reported, a long-standing challenge for the federal government has been producing credible data on outcomes achieved through federal programs. Policymakers need credible data to make resource allocation decisions on what programs to fund. Concerns about

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<sup>48</sup>Accuracy includes both validity and reliability. Validity means that we are measuring what we think we are measuring. Reliability is the likelihood that a measurement procedure will obtain the same results if repeated. Thus, reliable data would largely be free from random error components. Without a single clear definition, there is the risk that individuals are using different definitions inconsistently to identify different organizations. Therefore, the FBO data may not be valid or reliable.



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the accuracy of the data collected on FBOs have previously been raised by others. For example, during a June 2005 House hearing on the centers for faith-based and community initiatives, two former officials from the WHOFBCI and a former HHS center director questioned the accuracy of the data.<sup>49</sup> In short, they questioned the methods used to collect data on which organizations are faith-based and the credibility of the reported data.

In 2001, the Administration noted that a lack of a standard definition for what constitutes a faith-based organization was an obstacle to federal agencies in determining how much federal funding FBOs receive.<sup>50</sup> Without using consistently applied criteria across federal agencies or requiring organizations to self-identify, each center is responsible for determining which grantees in selected programs are faith-based. One vehicle the centers use for identifying FBOs is a voluntary survey that is sent to all grant applicants and which asks, among other questions, whether the applicant is a “faith-based/religious” organization. However, the extent to which applicants return the survey varies across the centers, and several center officials reported that the response rate for this survey has been low.

In cases in which applicants do not complete the voluntary survey, agencies rely on other methods of identification, such as administrative reports, Web sites, and phone inquiries by center and program staff. Moreover, a variety of agency staff collects this data without consistently applied criteria. Some agencies rely on center officials to collect this data, while others rely on either program staff or contractors. For example, one center official said that because there is no established definition of an FBO, officials are careful not to direct the program office staff on what characteristics to look for when identifying these organizations. Such methods involve considerable work on the part of program and center officials and, in some cases, discretion in determining which organizations are faith-based. Another document that collects information on organizations’ characteristics is OMB’s mandatory application for federal

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<sup>49</sup>For a discussion of congressional oversight of the Faith-Based and Community Initiative and data issues, see *H.R. 1054 Authorizing Presidential Vision: Making Permanent the Efforts of the Faith-Based and Community Initiative*, hearing before the House Committee on Government Reform, Subcommittee on Criminal Justice, Drug Policy, and Human Resources, 109th Cong. (June 21, 2005).

<sup>50</sup>White House (2001). *Unlevel Playing Field: Barriers to Participation by Faith-Based and Community Organizations in Federal Social Service Programs*. Washington, D.C.

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financial assistance that all applicants must complete. Although the application instructs applicants to identify themselves from a list of organizational categories, no category for faith-based organization is included.<sup>51</sup>

Some center officials told us that they believed that many FBOs may be reluctant to identify themselves as such on the voluntary survey because of concerns that being labeled faith-based might work against them in the grant process. However, it is unclear the extent to which FBOs are reluctant to self-identify. Some FBOs may not be concerned as indicated by the fact that they have religious organizational names and their mission statements include religious references. In addition, according to HUD officials, since 1997 HUD has asked organizations applying for Continuum of Care programs to self-identify whether or not they are “a religious organization, or a religiously-affiliated or motivated organization.” HUD officials reported a high response rate from its applicants on this question and noted that for this program, they rely on these data rather than the voluntary survey to identify grantees that are FBOs. Finally, most of the 26 FBOs we visited said they filled out the voluntary survey, and almost all said they would not be hesitant to self-identify as faith-based if asked.

Developing criteria for what constitutes an FBO is a challenging task. Some organizations have a historical religious connection but only provide secular social services, while other organizations are churches where faith permeates the nonfederal services provided. The problem of determining, without consistently applied criteria across federal agencies whether an organization is faith-based or not is illustrated by one center official telling us that his agency considers all of the local Young Men’s Christian Association (YMCA) and the Young Women’s Christian Association (YWCA) entities to be FBOs on the basis of the religious affiliation contained in their organizational names and mission statements of the national organizations. Meanwhile, an official at another agency said that his agency looked beyond the national organization to see if the local entities consider themselves to be faith-based.

An official at one local YWCA in Texas told us that the organization does not consider itself to be an FBO. Similarly, several California organizations

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<sup>51</sup>One of the types of applicant categories available for applicants to check is “not for profit organization.” However the application does not contain any further breakdown of this category.

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listed by the WHOFBCI as FBOs told us that despite their religious-sounding names, they did not consider themselves to be FBOs. This issue will also be a concern as centers seek to collect additional data on FBOs receiving state-administered formula grant programs. Several state officials said that they believed that having a standard definition for FBOs would help them if they are asked to collect data on which of their grantees are FBOs.

Other attempts have been made to develop criteria for what constitutes an FBO for collecting data on federal funding to FBOs. A February 2006 study by the Roundtable on Religion and Social Welfare Policy sought to assess the extent of federal support of faith-based social service providers by examining the direct recipients of discretionary grant awards made by the federal agencies that have initiative-related centers. Drawing on past research on key characteristics of the faith character of organizations, the study developed five characteristics by which to define an organization as an FBO. These characteristics include whether the organization used overt religious words or symbols in its name and whether religious or spiritual references were contained in the organization's mission or value statement.<sup>52</sup>

#### Outcome Evaluations of Many Pilot Programs Have Not Begun

Progress in achieving the initiative's second long-term goal of improved participant outcomes cannot yet be determined because agencies have not completed most of the outcome-based evaluations for their ongoing pilot programs. OMB's *Standards for Success* for the initiative requires agencies to undertake outcome-based evaluations of their pilot programs and build an evaluation component into new pilots. Outcome-based evaluations may involve several years of data collection before the analysis can take place, and several of these pilot programs were initiated only a few years ago.

Generally, pilot programs help agencies demonstrate actual benefits that may be achieved using a particular approach. While outcome evaluations are an important component of program management in that they assess whether a participant is achieving an intended outcome—such as obtaining employment or completing high school—they cannot measure whether the outcome is a direct result of program participation. Other influences, such as the state of the local economy, may affect an

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<sup>52</sup>See Montiel, Lisa M., and David J. Wright *Getting a Piece of the Pie: Federal Grants to Faith-Based Social Service Organizations*, The Roundtable on Religion and Social Welfare Policy, February 2006, Washington, D.C.

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individual's ability to find a job as much as or more than participation in an employment and training program. Many researchers consider impact evaluations—a form of outcome evaluation—to be the best method for determining the effectiveness of a program; that is, whether the program itself rather than other factors leads to participant outcomes. However, impact evaluations can be time-consuming and expensive and may not be appropriate in all circumstances.<sup>53</sup>

As shown in table 7, an outcome evaluation was completed or evaluations were under way for 7 of the 15 pilot programs for faith-based and community organizations. Justice completed an outcome-based evaluation for the Clergy Against Senior Exploitation pilot program in Denver. The evaluation suggests that the participants who completed the survey believe that they were more knowledgeable about types of fraud and fraud prevention and were better prepared to report fraud after completing the program than prior to the program. While such results are promising, the evaluation design does not allow for complete confidence that the pilot achieved its intended outcome of helping participants avoid becoming victims of fraud. For one of the six evaluations underway, we could not determine from the design plan provided to us on the Faith and Community-Based Juvenile Delinquency Treatment Initiative whether the evaluation would be outcome-based. While officials at Justice provided us with a list of research questions related to the process and outcome evaluation under way, no specific information about the research design was provided.

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<sup>53</sup>For further information about the different types of program evaluations, including process, outcome, and impact evaluations, see GAO, *Performance Measurement and Evaluation: Definitions and Relationships*, GAO-05-739SP (Washington, D.C.: May 2005).

**Table 7: Most Required Outcome Evaluations Not Completed, and Some Design Plans May Not Support an Evaluation of Program Outcomes**

Agency	Pilot and date established	Outcome evaluation completed	Evaluation underway	Intend to conduct outcome evaluation	No outcome evaluation planned
Justice	Life Connections-2002		X		
	Faith and Community-Based Juvenile Delinquency Treatment Initiative-2003		X		
	CASE-2003	X			
	Rural Domestic Violence and Child Victimization Enforcement Grant Program: Special Initiative Faith-Based and Community Organizations Pilot Program-2005		X		
Labor	Small Grassroots Program-2002			X	
	Ready4Work-2003		X		
	Grants for Workforce Investment Boards-2004				X
	Prisoner Reentry Initiative-2005		X		
Education	Supplemental Educational Services-2004		X		
HHS	Compassion Capital Fund Demonstration Program-2002			X	
	Compassion Capital Fund Targeted Capacity-Building Program-2003			X	
	Mentoring Children of Prisoners-2003			X <sup>a</sup>	
	Access to Recovery-2004			X	
HUD	Unlocking Doors Initiative-2005				X
	Mentoring Pilot Project-2005			X	
<b>Total</b>		<b>1</b>	<b>6</b>	<b>6</b>	<b>2</b>

Source: Education, HHS, HUD, Justice, and Labor program documents and interviews with agency officials.

<sup>a</sup>Center officials at HHS said they intend to conduct an impact evaluation of the Mentoring Children of Prisoners program that includes outcome data and analysis.

Of the six pilot programs in which center officials said they intend to conduct outcome-based evaluations, HHS and HUD provided to us a total of five design plans. Three of the five design plans appear to support

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outcome-based evaluations.<sup>54</sup> However, for two of the five design plans, we could not determine whether the evaluations would be outcome-based because the plans lacked clarity and specificity about how the agency would conduct these evaluations. Specifically, for HHS's Access to Recovery and Mentoring Children of Prisoners pilot programs, the written materials did not describe the methodology or research plans for the evaluations. With regard to the sixth pilot program, Labor did not provide us with any written materials with which to assess whether the evaluation for the Small Grassroots Program would be outcome-based or not. For the two pilot programs in which agencies do not plan to conduct an outcome-based evaluation, HUD completed a non-outcome-based evaluation, and Labor officials told us they have no plans to conduct an evaluation for the Grants for Workforce Investment Boards pilot program.

Our previous work has shown that it is important for agencies to collaborate with OMB to increase the likelihood that evaluations will meet OMB's needs. As agencies move forward with their design plans for evaluating pilot programs, it will be important for agencies to discuss the expectations for the scope and purpose of evaluation designs with OMB so that these evaluations will meet the intended need. Evaluations designed for internal audiences, such as agency officials, and others designed for external audiences, often have a different focus. Evaluations that agencies initiate typically aim to identify how to improve the allocation of program resources. Studies requested by program-authorizing or oversight bodies, such as OMB, are more likely to address external accountability—to judge whether the program is properly designed or is solving an important problem.

Although determining whether or not FBOs are more effective than secular organizations in helping program participants is not an explicit goal of the initiative, this issue has been part of the discussion since the initiative's inception. In the five agencies we reviewed, we identified only one program evaluation, by Education, that will seek to compare the effectiveness of FBOs with that of secular organizations.<sup>55</sup> Judging from

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<sup>54</sup>The three pilot programs in which design plans appear to support outcome evaluations are HHS' Compassion Capital Fund Demonstration Program, the Compassion Capital Fund Targeted Capacity-Building Program, and HUD's Mentoring Pilot Project.

<sup>55</sup>Education stated that it plans to compare the performance of faith-based and community organizations to non-faith-based and community organizations in certain department-funded programs by asking questions such as if the quality of programs funded by the department increased from 2001 to 2004 as a result of the participation of faith-based and community organizations in the grant application process.

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OMB Faces Challenges in  
Measuring and Reporting on  
Progress in Meeting Long-Term  
Goals of Initiative

our literature review of independent, nongovernmental studies, very few studies attempt to make this comparison. We identified four studies comparing the effectiveness of faith-based organizations with that of secular organizations and determined that three of these studies lack methodological rigor. The fourth study did not find a statistically significant difference in the ratings made by people with low income of the effectiveness of faith-based organizations compared with nonsectarian organizations. However, the results of this study are not generalizable because the study's sample of respondents is for only two counties in Pennsylvania.<sup>56</sup>

Agencies are tasked by OMB to achieve the two long-term goals of the initiative:

- greater participation by faith-based and community groups because of regulatory and statutory reform, streamlined contracting procedures, and improved coordination and outreach activities to disseminate information more effectively at the grassroots level to faith-based and community organizations; and
- improved participant outcomes by placing a greater emphasis on accountability and by making federal assistance better tailored to local needs through the use of faith-based and community groups.

Some center officials stated that achieving green status on OMB's scorecard did not necessarily mean that an agency had accomplished these long-term goals, but rather indicated the extent to which agencies had implemented OMB's *Standards for Success*.

OMB has not fully assessed or reported on agencies' progress toward achieving the two long-term goals of the initiative and is likely to encounter challenges in doing so. For example, with regard to the first goal of greater participation by faith-based and community groups, we have already noted that although the WHOFBCI has reported annually on the numbers and amounts of federal competitive grants awarded to FBOs, there may be issues of accuracy with these data. Moreover, this data reporting effort has focused on FBOs, not on community-based organizations—the other group of organizations specified in the long-term

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<sup>56</sup>See, Wuthnow, Robert, "The Effectiveness and Trustworthiness of Faith-based and Other Service Organizations: A Study of Recipients' Perceptions," *Journal of Scientific Study of Religion*. 43:1, (2004).

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goal. In addition, OMB also faces the challenge of translating the general goal of greater participation into measurement standards that do not create perverse incentives or unreasonable expectations for agencies. The general goal of greater participation could be measured in various ways, such as through the number or percentage of these groups among federal grant applicants, the number or percentage of grants awarded to these groups, or the amount or percentage of grant funds awarded to these groups.

With regard to the second long-term goal of improving participant outcomes, OMB is also likely to face challenges in assessing agencies' progress. For example, OMB has tasked agencies with performing outcome-based evaluations of the pilot programs in their faith-based and community initiative, but as we have noted, most of these evaluations have not been completed. In addition, it is unclear whether the outcome-based evaluations of pilot programs that eventually will be completed will provide sufficient information for assessing progress towards the second long-term goal—in part, because the goal of improved participant outcomes could be measured in different ways. Finally, it is unclear whether assessing agencies' progress toward this long-term goal would also take account of participant outcomes in some of the other nonpilot programs in which faith-based or community organizations receive grants, and if so, whether sufficient data would be available for these programs. These varied challenges do not undercut the importance of moving from a focus on processes to long-term results in assessing agencies' performance in implementing the faith-based and community initiative. GAO has previously reported that results-oriented agencies continuously strive to improve their strategic planning efforts and do not view strategic planning as a static or occasional event.<sup>57</sup>

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## Conclusions

The Administration's efforts to expand opportunities for faith-based and community organizations to provide federally funded social services have garnered support from many parties while at the same time prompting concerns from others about whether federal funds should be used to support the activities of FBOs and whether adequate measures are in place to ensure that these organizations are not using federal funds to support religious activities. Most of the programs that we reviewed provided some

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<sup>57</sup>See GAO, *Agencies Strategic Plans under GPRA: Key Questions to Facilitate Congressional Review*, GAO/GGD-10.1.16 (Washington, D.C.: May 1997).



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guidance to applicants and grantees on the requirement that federal funds for their programs not be used for religious activities, although some federal and state offices did a better job than others in clearly presenting information on this requirement to their grantees. We found instances where FBOs did not appear to understand the nuances associated with the equal treatment rule that prohibits FBOs from engaging in inherently religious activities while providing services supported with direct federal funds. We also found that Justice's exemption to the restrictions on inherently religious activities for certain programs, including the correctional program we reviewed, lacks needed specificity and does not provide FBOs with clear guidance on what religious activities they can and cannot engage in with federal funds in correctional settings.

We also found that many program offices only provided citations to federal or program regulations in their grant documents for the rules related to nondiscrimination against beneficiaries and permissible hiring by FBOs and that several provided outdated information. In many of the programs we reviewed, government agencies are not systematically monitoring for compliance with the equal treatment safeguards. While government agencies are not required by federal regulation to specifically monitor grantees for compliance with these safeguards, without some written guidelines—including those used in single audits—that require a discussion and check of these safeguards during monitoring, the government has little assurance that the safeguards are protecting beneficiaries, government agencies, and FBOs as intended. Furthermore, one of OMB's *Standards for Success* that agencies must meet to receive a green grade is to monitor grantees for compliance with the equal treatment safeguards.

In addition to monitoring, program accountability can be facilitated through sound performance management and reporting, including reliable performance data. Collecting credible data on FBOs receiving federal funds is a difficult and time-consuming task, and the centers and program offices have made good-faith efforts to develop estimates for FBOs receiving federal grants. Nonetheless, without standard criteria across all agencies of what constitutes a faith-based organization or a requirement that FBOs self-identify, the data that the agencies collect may limit the ability of policymakers to assess the extent to which the initiative is progressing toward achieving its long-term goal of greater faith-based and community participation. While some have voiced concerns about requiring FBOs to self-identify, it is important to note that the surveys with this information are included in grant applications but are not considered when independent grant reviewers evaluate grant applications. In addition,

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FBOs may not be concerned about identifying themselves as faith-based as indicated by the fact that they have religious organizational names and their mission statements include religious references that are often seen by grant reviewers.

Since 2001, agencies and OMB have emphasized progress toward the initiative's short term goals. Now that many agencies have achieved green status for their work on eliminating barriers and undertaking outreach and technical assistance to local organizations, it will be important for OMB to ensure that the initiative's strategic, long-term goals clearly articulate what OMB intends to measure so that it can assess whether agencies are achieving these goals and demonstrate whether agencies are using taxpayer dollars effectively. As with other strategic planning efforts, updating and revising long-term goals every several years is considered an effective performance management practice. Clarifying and fine-tuning strategic goals can help center officials manage their efforts toward achieving appropriate and realistic long-term goals.

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## Recommendations for Executive Action

To improve grantee understanding and federal agency oversight of the equal treatment regulations for programs in which faith-based organizations are eligible for federal funding, we recommend that the Director of OMB:

1. ensure that all agencies with initiative-related centers include information on the equal treatment safeguards in program grant documents for which faith-based organizations are eligible, and
2. direct federal agencies and, where appropriate, state agencies, to include a reference to the equal treatment safeguards in their monitoring tools the agencies use to oversee federally funded grantees, and
3. ensure that program-specific single audit supplements, where appropriate, include a reference to these safeguards.

To ensure that contractors for Justice's correctional programs understand the exception to the prohibition on using federal funds for inherently religious activities, we recommend that the Attorney General:

1. clarify the scope of the exception for chaplains and organizations assisting chaplains to the general prohibition against using federal funds for religious activities, and

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2. include a clear explanation of the exception and its scope in the contracts for Justice's correctional programs.

To improve accountability of the Faith-Based and Community Initiative, we also recommend that the Director of OMB:

1. Work with the Secretaries of Education, HHS, HUD, and Labor, and Justice's Attorney General, to develop a consistently applied method that will provide more accurate data on which organizations receiving federal funds are faith-based. This effort could consider options such as developing consistently applied criteria of what constitutes a faith-based organization, making the voluntary OMB survey of grant applicants mandatory, or modifying OMB's mandatory grant application form to include a category for faith-based organizations.
2. Develop a plan for measuring and reporting on progress in achieving the long-term goals of the faith-based and community initiative. This effort may involve reassessing the two current long-term goals to determine whether they should be revised and clarifying their connection to the *Standards for Success*.

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## Agency Comments

We received comments from Education, HHS, HUD, Justice, Labor, and OMB on a draft of this report. Comments from Education, HHS, HUD, Justice, and Labor are contained in appendixes IV through VIII. Education, HHS, HUD, Labor and OMB also provided technical comments, which we incorporated where appropriate.

On May 31, 2006, we met with OMB officials to obtain their comments on our draft report. OMB officials stated that they generally agreed with the report's recommendations to OMB. They agreed that our recommendations that OMB take action to help ensure that agencies include information on the equal treatment safeguards in program grant documents and in program monitoring tools were reasonable. OMB officials noted that these efforts would build upon agencies' existing efforts to ensure that grantees are aware of these important safeguards.

In regard to our recommendation that OMB ensure that agencies include a reference to the equal treatment safeguards in program grant documents, Education and HHS stated that they already provide sufficient information in their grant documents on these safeguards. Our report documents in table 5 which programs in our review include references to specific safeguards in their grant documents. While a few programs provide

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information on all three safeguards we examined, most do not. Education's Mentoring program that we reviewed provided only citations to the equal treatment regulations and did not, for example, explicitly state in its grant documents that grantees cannot provide inherently religious activities with direct federal funds. One of HHS's programs included in our review did not provide any information on 2 of the 3 safeguards we examined. We believe that including information on the safeguards in one or more key grant documents will provide greater assurance that grantees are aware of and understand the safeguards designed to protect the interests of FBOs, beneficiaries, and the government.

Education, HHS, HUD, and Labor took issue with our recommendation that agencies be required to include a reference to the equal treatment safeguards in their monitoring tools. They stated that such a requirement would involve singling out faith-based organizations for greater oversight and monitoring than other program participants on the basis of presumed or confirmed religious affiliation. However, we are not recommending that they monitor FBOs more frequently or any differently than they monitor other organizations. The equal treatment regulations are potentially applicable to all grantees providing federally funded services. While these regulations may have more relevance to FBOs and their activities, we do not believe that having agencies ensure compliance with all applicable regulations, including the equal treatment regulations, results in any improper unequal treatment of FBOs. In our view, creating a level playing field for FBOs does not mean that agencies should be relieved of their oversight responsibilities relating to the equal treatment regulations. In addition, as noted in our report, several of the 10 program offices in our review included such a reference to equal treatment regulations in their monitoring guidelines, and officials from 2 other program offices told us that they intend to include information on these regulations as they revise their monitoring guidelines. For example, Labor officials stated in their comments that they have drafted detailed revisions to their monitoring tools that will enhance their efforts to ensure compliance with all facets of the equal treatment regulations.

HHS officials provided an additional comment on their efforts to ensure that their program staff understand the equal treatment regulations. They stated that HHS provides training to HHS program staff and state and local officials who administer federal program funds. We agree that such training can provide an important means for ensuring appropriate monitoring, but we believe that including information on these safeguards in program monitoring tools, as several programs covered in our review currently do, is a prudent approach to ensuring that program staff will consider these safeguards when monitoring grantees.

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OMB officials noted that grant-monitoring efforts could be strengthened governmentwide and that our recommendation that OMB ensure that program-specific single audit supplements include a reference to these safeguards would need to be considered in the context of grant-monitoring requirements overall. They stated that for some programs that already have extensive audit requirements, expanding the program-specific audit requirements could pose additional burdens to the independent auditors conducting those reviews and might not be implemented uniformly. OMB also questioned the potential usefulness of this recommendation since smaller programs do not have a program-specific supplement and many faith-based and community organizations receiving federal grants do not expend \$500,000 or more in federal funds and therefore would not be subject to a single audit.

We agree that a governmentwide review of grant monitoring requirements would be valuable and we acknowledge that adding a reference to program-specific single audit supplements would add another audit step for independent auditors and that agencies need to balance the additional requirement with the added assurance it would give providers. While we modified the recommendation to indicate that it might not be suitable to include a reference to the equal treatment safeguards in some program-specific supplements, we continue to believe that including these references wherever appropriate based on facts, circumstances, and risk, would help assure interested parties that grantees are using federal funds appropriately. It is noteworthy that two of the three programs in our review that had a 2006 program-specific audit required auditors to check that funds were not expended for inherently religious activities. We agree with OMB that many programs do not have program-specific supplements and that many faith-based and community organizations may not be subject to the single audit because of the \$500,000 threshold. However, including a reference to the safeguards in these supplements would provide an additional check for compliance with these safeguards when independent auditors conduct a single audit of larger organizations. Moreover, our recommendation that agencies include information on the safeguards in their program grant documents takes on increased importance for those organizations not subject to a single audit. As noted in our report, one of the independent auditors we spoke with said that he developed his own audit plan by reviewing the grant application package.

Regarding our recommendation that OMB work with agencies to develop more accurate data on FBO grantees, officials at OMB said that they agree that having better data on the types of organizations applying for and receiving federal grants would help agency and Administration efforts to

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gauge the success of the initiative. They said that federal agencies have been improving the quality of the data they collect, and which the White House reports annually, on FBOs receiving federal grants. However, OMB officials said that there are obstacles to obtaining better data and that they are uncertain about the extent to which the data could be further improved. They noted that agencies are concerned about the practical and legal difficulties inherent in developing a uniform definition for what constitutes an FBO. OMB officials stated that OMB and agencies have discussed making the voluntary survey mandatory, but that this step has not been taken because of agency concerns that some FBOs would not be comfortable self-identifying and that mandatory self-identification might discourage participation. HHS also questioned our recommendation to improve the data that the centers collect on federal grants awarded to FBOs. HHS stated that our recommendation suggests the need to establish a uniform definition of an FBO, which HHS stated would be problematic and provide questionable benefit.

We acknowledge in our report that developing criteria on what constitutes an FBO is a challenging task, and our recommendation does not dictate that agencies establish a uniform definition. However, in cases where an organization chooses not to self-identify, the various agency centers or program offices are currently applying criteria—whether explicitly or implicitly—that determine whether they categorize an organization as an FBO. We believe that greater consistency in their use of such criteria could help improve the accuracy of data on funds received by FBO grantees. In addition, the extent to which FBOs are reluctant to self-identify is unclear. HUD includes in its Continuum of Care grant application a request for programs to self-identify, and HUD officials reported a high response rate from its applicants on this question. In addition, some FBOs have religious names and their mission statements include religious references. Without evidence that FBOs are reluctant to self-identify, we believe that agencies should explore the possibility of making the voluntary survey mandatory or modifying the mandatory application form to include a category for FBOs. We believe that if one of the stated long-term goals of the initiative continues to be greater participation of faith-based and community organizations in providing federally funded social services, then it is critical to systematically explore options for obtaining more accurate data on participation.

With regard to our recommendation to OMB to develop a plan for measuring and reporting on progress in achieving the two long-term goals of the faith-based and community initiative, OMB officials had a different response for each long-term goal. For the long-term goal of improving

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participant outcomes, OMB officials agreed that it is reasonable for OMB to publish the results of the outcome-based evaluations that agencies are required to conduct on their pilot programs. However, OMB officials said they did not see a need for OMB to develop a plan for measuring and reporting on progress with respect to the other long-term goal of greater participation of faith-based and community organizations. They noted that the White House is already reporting on the numbers of FBOs receiving federal grants and the amounts of these grants in selected programs and trends in these areas. However, OMB officials acknowledged that there is a lack of clarity about how the two long-term goals of the initiative are linked with OMB's *Standards for Success* and that it thus may be appropriate to clarify their connection as part of a reassessment of the long-term goals. We agree with OMB that the long-term goals might need to be better aligned with the interim goal of expanding opportunities for faith-based and community organizations to compete on an equal basis for federal funding and we modified our recommendation to reflect this point. We also agree with HHS's comment that it would be inappropriate to establish arbitrary participation goals.

Our draft report had included a recommendation that OMB make publicly available the *Standards for Success* for the FBCI. OMB posted these standards on its Web site in late May and we accordingly deleted this recommendation in our final report.

Justice agreed with our recommendation that the Attorney General clarify the scope of the exception contained in Justice's equal treatment regulations for chaplains and organizations assisting chaplains. With regard to our other recommendation to the Attorney General, Justice stated that the Department's Federal Bureau of Prisons is open to discussing possible changes to its contract language to further clarify the scope of the exception to community corrections centers. See appendix IV for our annotated responses to each of the comments Justice made in its letter.

In several instances, agencies commented that our report omitted important information. For example, HUD stated that we do not define what safeguards are designed to protect FBOs, beneficiaries, and the government. However, this information is outlined in table 2 and the safeguards are discussed in detail on pages 29-36. HUD also took issue with our characterization of the initiative's goals. HUD stated that we do not acknowledge the Administration's stated goals for the initiative of removing barriers, leveling the playing field, and providing technical assistance. However, we discuss these goals in table 1 and on page 40.

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Labor also stated in its comments that the object of the initiative is to level the playing field. While our report notes that this is a stated goal of the initiative, our report also cites the stated long-term PMA goals of the initiative of greater participation of faith-based and community organizations and improved participant outcomes. Labor also commented that our report overlooks the data that Labor collects from grantees on outcome measures, such as employment and earnings. Our report discusses the long-term goal of improved participant outcomes and provides information on the status of the outcome evaluations for the 15 pilot programs for faith-based and community organizations. The scope of our work did not include reporting the data being collected for individual outcome measures in the various programs. Finally, Education stated in its comments that we did not find any indication of unallowable activity. This is true except with regard to the prohibition pertaining to inherently religious activities. We found that a few of the FBOs included in our review described engaging in activities that appear not to be permissible with respect to this prohibition, as noted on pages 34-35.



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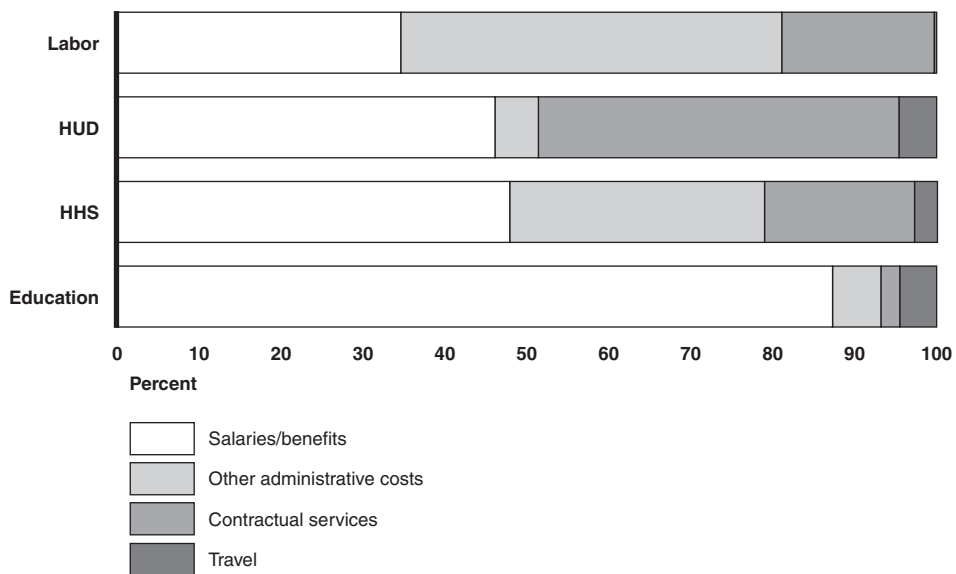
As agreed with your offices, unless you publicly announce its contents earlier, we plan no further distribution of this report until 30 days from its date. At that time, we will send copies of this report to the Secretaries of HHS, HUD, Education, and Labor; the Attorney General; the Director of OMB; 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 GAO's Web site at <http://www.gao.gov>.

Please contact me at (202) 512-7215 if you or your staff have any question about this report. Other major contributors to this report are listed in Appendix IX.



Cynthia M. Fagnoni  
Managing Director, Education, Workforce,  
and Income Security Issues

# Appendix I: Centers' Estimated Expenditures by Category, Fiscal Year 2005



Source: GAO analysis of Education, HHS, HUD, and Labor data.

Note: Justice was not able to provide a breakdown of its center's expenditures.

# Appendix II: Selected Characteristics of Faith-Based Organizations GAO Visited

Religious affiliation	Federal funding program(s)	Provide voluntary religious services for clients	Received federal funding prior to FBCI	Believes FBCI changed opportunities for their organization	Annual overall budget (dollars in thousands)	Annual program budget (dollars in thousands)	Percentage of federal funds in program budget
Christian	Community-Based Abstinence Education, HHS; Abstinence Education Program, HHS	No	No	No	1,500	104	83
Christian	Community-Based Abstinence Education, HHS	No	Yes	No	632	378	100
Christian	Community-Based Abstinence Education, HHS	No	Yes	Yes	1,500	680	100
Jewish	Microenterprise Development Program, HHS	No	Yes	Yes	4,615	300	100
InterFaith	Grants for Small Faith-Based and Community Nonprofit Orgs., Labor	Yes	No	Yes	50	50	50
Christian	Grants for Small Faith-Based and Community Nonprofit Orgs., Labor	Yes	No	No	225	150	17
Christian	Grants for Small Faith-Based and Community Nonprofit Orgs., Labor	Yes	No	Yes	250	250	10
Baptist	Mentoring Children of Prisoners, HHS	No	No	Yes	550	270	75
Lutheran	Continuum of Care, HUD; Emergency Shelter Grants Program, HUD	No	Yes	No	41,000	5,550	20
Pentecostal	Continuum of Care, HUD	Yes	Yes	No	3,200	525	40
Interfaith	Microenterprise Development Program, HHS	No	Yes	Uncertain	950	325	60
Evangelical	Community Corrections Contractor with Bureau of Prisons, Justice	Yes	Yes	No	3,000	825	100

**Appendix II: Selected Characteristics of  
Faith-Based Organizations GAO Visited**

<b>Religious affiliation</b>	<b>Federal funding program(s)</b>	<b>Provide voluntary religious services for clients</b>	<b>Received federal funding prior to FBCI</b>	<b>Believes FBCI changed opportunities for their organization</b>	<b>Annual overall budget (dollars in thousands)</b>	<b>Annual program budget (dollars in thousands)</b>	<b>Percentage of federal funds in program budget</b>
Christian	Abstinence Education Program, HHS	No	No	Yes	313	313	100
Christian	Abstinence Education Program, HHS	No	Yes	No	100	100	92.5
Catholic	Continuum of Care	No	Yes	No	36,000	1,300	Less than 50
Protestant	Emergency Shelter Grants Program, HUD	Yes	Yes	No	1,500	244	26
Christian	Emergency Shelter Grants Program, HUD	No	Yes	No	300	300	25
Christian	Continuum of Care, HUD	Yes	Yes	No	1,900	310	25
Christian	Substance Abuse Prevention and Treatment Grants, HHS	Yes	Yes	No	22,000	4,000	55
Christian	Continuum of Care, HUD; Emergency Shelter Grants Program, HUD	Yes	Yes	No	9,000	1,000	50
Christian	Substance Abuse Prevention and Treatment Grants, HUD	Yes	Yes	No	1,400	873	80
Protestant	Community-Based Abstinence Education, HHS; Abstinence Education Program, HHS	Yes	Yes	Yes	1,281	439	83
Protestant	Department of Education Mentoring Programs	Yes	No	Yes	300	103	99
Catholic	Community Corrections Contractor with Bureau of Prisons, Justice	Yes	Yes	Yes	1,500	1,500	100%

**Appendix II: Selected Characteristics of  
Faith-Based Organizations GAO Visited**

<b>Religious affiliation</b>	<b>Federal funding program(s)</b>	<b>Provide voluntary religious services for clients</b>	<b>Received federal funding prior to FBCI</b>	<b>Believes FBCI changed opportunities for their organization</b>	<b>Annual overall budget (dollars in thousands)</b>	<b>Annual program budget (dollars in thousands)</b>	<b>Percentage of federal funds in program budget</b>
Christian	Continuum of Care, HUD; Emergency Shelter Grants Program, HUD	No	Yes	No	1,354	260	38%
Christian	Department of Education Mentoring Programs	No	No	No	250	106	80-85%

Source: GAO analysis of information obtained from interviews with officials from the 26 FBOs.

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# Appendix III: Best Practices for the Initiative's Standards for Success

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## Best Practices for Outreach and Technical Assistance

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### Federally Administered Grant Programs

1. reviews agency programs to identify those of particular interest to faith-based and community organizations,
2. implements a strategic outreach and technical assistance plan (through White House regional conferences and workshops),
3. creates a database of faith-based and community organizations and maintains grant solicitation mailing lists,
4. produces informational materials in consultation with the White House Office of Faith-Based and Community Initiatives (WHOFBCI)
5. organizes technical assistance workshops,
6. provides Web-based outreach and technical assistance,
7. participates in interagency conferences on the Faith-Based and community Initiative,
8. incorporates Faith-Based and Community Initiative outreach goals into agencywide events.

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### State and locally Administered Grant Programs

9. implements an action plan in consultation with WHOFBCI to enhance opportunities of faith-based and community organizations to compete for federal funds at the state and local levels (through White House regional conferences and workshops),
10. Creates a database of faith-based and community organizations interested in state and locally administered grant programs,
11. provides targeted Web-based outreach and technical assistance,
12. distributes written outreach materials approved by WHOFBCI,
13. coordinates with state and local agencies through regional offices on outreach activities,
14. adopts successful outreach and technical assistance practices of other agencies,

15. coordinates with regional offices to provide technical assistance workshops.
- 

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## Best Practices for Implementation of Equal Treatment Regulations

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### Education

1. posts a notice of the regulation on its center for faith-based and community initiative Web site,
2. posts a notice of the regulation on Web sites of agency program offices,
3. sends a program memo to state and local administrators of agency funds, alerting them to the final rule and asking them to ensure that their own processes and policies reflect the rule,
4. develops materials such as questions and answers, PowerPoint presentations, and easily accessible explanations of the rule in consultation with WHOFBCI to educate internal and external stakeholders about the regulations,
5. educates agency grant staff, including field offices, that manage formula grants on the requirements of the regulation,
6. arranges training for state and local officials who administer funds under the regulation (through White House regional conferences and workshops),
7. educates governors' offices and mayors' offices about the requirements of the regulation (through materials to be provided at White House regional conferences and workshops),
8. discusses the regulations at conferences,
9. encourages organizations that represent grantees to highlight the regulations in constituent newsletters,
10. sends a more detailed policy notice or guidance document to state and local officials on how to implement the rule.

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**Compliance**

11. enforces existing procedures when monitoring uncovers a violation,
12. conducts a representative survey in consultation with OMB and WHOFBCI by program or by state to examine indicators of progress in complying with the regulations,
13. reviews existing mechanisms to determine whether they include sufficient monitoring to ensure compliance with the equal treatment regulations.



# Appendix IV: Comments from the Department of Justice

Note: GAO comments supplementing those in the report text appear at the end of this appendix.



U.S. Department of Justice

Office of the Deputy Attorney General

Washington, DC 20530  
May 22, 2006

BY MESSENGER

Mr. Andrew Sherrill  
Assistant Director  
Governmental Accountability Office  
441 G Street, NW  
Room 5E-35  
Washington, DC 20548

Re: GAO's Draft Report: *Faith-Based and Community Initiative: Improvements In Monitoring Grantees and Measuring Performance Could Enhance Accountability* (GAO-06-616/130451)

Dear Mr. Sherrill:

Thank you for the opportunity to review and comment on the Government Accountability Office (GAO) draft report entitled "Faith-Based and Community Initiative: Improvements In Monitoring Grantees and Measuring Performance Could Enhance Accountability" (hereinafter "Report"). The Report has been reviewed by various components of the Department of Justice, including the Office of Justice Programs, the Federal Bureau of Prisons, the Office on Violence Against Women, the Civil Rights Division, and the Office of the Deputy Attorney General. This letter constitutes the Department's formal response to the Report, and we request that it be included in the GAO's final document.

Based upon our review, we affirm the GAO's findings that:

- the Department is fulfilling the mission of the Faith-Based and Community Initiative (hereinafter "Initiative") to expand opportunities for community organizations, including faith-based ones, to compete without discrimination or favoritism for federal social service grants and contracts;
- every faith-based recipient of federal funds that GAO interviewed said they were aware of the regulation requiring the separation of inherently religious activity from the secular social service being funded by the Department;
- pursuant to the law, faith-based organizations (hereinafter "FBOs") that receive federal grants are monitored the same as secular organizations - - no more or less intensely;
- all of the Department's pilot programs have evaluations completed or underway; and

Mr. Andrew Sherrill  
May 22, 2006

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- the Office of Management and Budget has assessed the Department's performance under the Initiative to meet the highest standards for success.

Also, we concur with the GAO's recommendation that the Attorney General clarify the scope of the exception in 28 CFR 38.1(b)(2).

The Department respectfully offers these additional comments:

1. The GAO should review and reconsider the accuracy of the Report's descriptions of the Initiative's mission. Federal grant programs for which non-government organizations are eligible to apply are not (as the Report states) "intended to encourage faith-based and community organizations to deliver federally funded social services." See, the unnumbered Highlights page, paragraph 2 ("What GAO Found", ll. 11-12). Rather, the mission of the Initiative is to remove obstacles confronting community organizations, including faith-based ones, when they apply for federal social service grants or contracts. The Initiative seeks to ensure equal opportunity and fair consideration for faith-based and other community organizations (hereinafter "FBCOs"), not special incentives, set-asides or preferential awarding.

2. The Report could more accurately describe the law relevant to the Initiative. The report repeatedly and erroneously refers to a ban on inherently religious activities during "program hours." That term does not appear in the regulation. On the contrary, the Department's Equal Treatment regulation (28 CFR 38.1, *et seq.*) expressly allows inherently religious activities to take place at the same time as federally-funded programming, provided the two are presented in separate venues and the religious activities are not funded with program dollars.

Moreover, the Report's numerous references to this ban could be rendered accurate in another regard. Use of federal funds for inherently religious activities is prohibited only if the funds are provided *directly* by the government to the service provider. Providers may offer voluntary religious activities *without* separation of time or location from the social service if beneficiaries are given a genuine choice between faith-based and secular service providers as part of an "indirect" funding program (like vouchers).

The GAO's observation about the applicable law is misleading. Moreover, equally suspect are the Report's attendant observations that several grantees misunderstood the applicable law. See, comment 3, *infra*.

3. The Report suggests that several unnamed FBOs in unnamed programs may be violating the regulation requiring that inherently religious activity (like prayer) be separated in time or space. See, page 7, ll. 10-13. GAO officials elaborated on this at their exit conference with the Department on April 19, 2006, stating that one of these FBOs was a Department of Justice contractor operating a community correction center or "halfway house" for returning offenders. When we asked how the CCC contractor violated the regulation, GAO explained that

See comment 1.

See comment 2.

See comment 3.

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May 22, 2006

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the contractor said that she would be willing to pray with an inmate upon request. GAO contended that because the CCC's operation was totally funded by the Department, and because inmates were allowed to leave the CCC once a week to attend a worship service, that the entire week other than those several hours of weekly worship were "program hours" in which prayer by staff would be prohibited. The rationale that the GAO offered for this conclusion reflects a misunderstanding of the applicable law. Indeed, GAO officials conceded at our exit conference that they were unfamiliar with the Religious Freedom Restoration Act of 1993, the Religious Land Use and Institutionalized Persons Act of 2000, and with First Amendment precedent recognizing the authority (if not the obligation) of the government to provide chaplains and other spiritual accommodation for inmates in custody. In fact, the applicable regulation expressly exempts community correction centers [8 CFR 38.1(b)(2)]. Consequently, we respectfully suggest that this CCC contractor was not violating applicable law.

See comment 4.

4. The Report frequently alleges that the data from the five FBCI centers hinder policymakers in assessing the Initiative's progress because the Administration does not require faith-based organizations to identify themselves as such and because the departments do not use a uniform, bright-line definition of "FBO" when collecting data on grantees.

There are compelling reasons why the Department of Justice follows neither of these suggestions. The Department distributes to applicants a separate survey in which the Department invites applicants to self-identify whether they are faith-based or secular. The Department makes this survey optional and does not submit it with the grant application to the independent review panels that score the applications. The survey is withheld from the panel because the goal of the FBCI is not to set aside funds in favor of FBCOs, but rather to eliminate obstacles that prevent such applicants from competing. Requiring self-identification could intimidate potential faith-based applicants and germinate the incorrect suspicion that their religion will be considered in the award process. Moreover, the lack of a definition of "FBO" does not prevent assessment of progress, because the Initiative seeks equal opportunity for both faith-based and secular groups. Progress can be measured as long as the Department can distinguish between public agencies and non-government organizations.

See comment 5.

5. We recommend that the GAO elaborate on its statement that "most agencies have not completed the OMB-required outcome-based evaluations of their pilot programs." See, page 8, lines 17-19. Without some explanation, a reader might conclude that these agencies were derelict in their obligation to OMB. That is not the case. In fact, for some agencies the necessary data is not yet available. For example, the Department of Justice cannot conclude its evaluation of the Federal Bureau of Prisons' "Life Connections" residential reentry pilot until a statistically-significant number of inmates graduate from the 18-month program, are released from prison, and then remain free from re-arrest for three years after release.

See comment 6.

6. The Report's weight and utility could have been enhanced if GAO had engaged in a broader and more representative survey of the Initiative. GAO reviewed only ten programs across five cabinet-level departments (only one program in this Department). GAO's field

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May 22, 2006

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review of the entire Initiative in the Department was confined to one community correction center and one comprehensive sanctions center. GAO officials conceded that they did not inquire about any of DOJ's competitive grant programs, any of its pilot programs, any of its formula or block grant programs to 54 states and territories, or any of the thousands of sub-grantees of the block grants.

See comment 7.

7. If the Report -- which is based on what GAO described as a "nonprobability sample" of (26) FBOs from among thousands of grantees in five departments (*see*, page 5, line 17) -- is to be useful to policymakers, we suggest that GAO identify as to each FBO: a) whether it was a direct competitive grantee, earmarked grantee, or sub-grantee of a formula or block grant; and b) from what Department and grant program it received its award or contract.

See comment 8.

8. Regarding the GAO's recommendation to the Attorney General (page 54 of the Report), the Department believes generally that it is not prudent to add to every program document selected contract language focusing on particular regulations and not others. However, the Department's Federal Bureau of Prisons is open to discussing possible changes to its contract language that might further clarify the application of 28 CFR 38.1(b)(2) to community correction centers.

The Department is committed to continuing success in the advancement of the Initiative. To that end, thank you for the opportunity to comment on your Report.

Sincerely yours,



Steven T. McFarland  
Director, Task Force For Faith-Based  
And Community Initiatives

The following are GAO's comments on the Department of Justice's letter dated May 22, 2006.

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## GAO Comments

1. The statement that Justice cites does not refer to the mission of the Administration's Faith-Based and Community Initiative but to funds awarded since 2001 through new grant programs. (The goals of the initiative are discussed on pages 11 and 40.) On page 25, we state that these new programs were created to provide training and technical assistance to faith-based and community organizations and to increase the participation of these organizations in providing federally funded social services. As shown in table 4 (pages 26-28), eligibility for several of these grants is specifically targeted to faith-based and community organizations and the stated purpose of many of these grants is to increase participation of faith-based and community organizations in providing federally funded social services. For example, the stated purpose of Justice's HOPE II program is to "increase the development and capacity of faith-based and/or community based organizations" to respond to victims in high-crime areas. In addition, as noted in HHS news releases, HHS's Compassion Capital Fund awards are "designed to help grass roots, faith-based and community organizations enhance their ability to provide a wide range of social services." We revised our statement on the highlights page and on page 22 to more fully reflect the purpose of these new grant programs.
2. We fully explain the safeguard related to inherently religious activities in Table 2, p. 13. In regard to the point that this safeguard relates to direct and not indirect federal funding, table 2 notes that this safeguard refers to "direct" government funds. For further clarification, we added a footnote to this table to explain that this safeguard does not pertain to providers offering services through indirect funding, such as vouchers, and clarified throughout the report that inherently religious activities cannot be offered unless separate in time or location from direct federally funded program activities.
3. GAO understands the authority of the government to provide chaplains and other spiritual accommodation for inmates in custody. However, as we discussed with Justice officials during our exit meetings, we believe that the scope of the exception for community corrections centers stated in Justice's equal treatment regulations (28 CFR 38.1 (b) (2)) needs to be clarified and that an explanation of this exception should be contained in community correction program contracts. Justice currently does not include a discussion of this exception in its

contracts and we maintain that community corrections staff may not understand whether or under what circumstances they may engage in religious activities using federal funds. Our report also recommends, and Justice agreed that the Attorney General should clarify the scope of the exception in its equal treatment regulations. We did not include any FBOs administering the Community Corrections program when we stated that four of the FBOs we visited appeared to violate the safeguard related to the prohibition on inherently religious activities unless separated in time or location from federally funded services.

4. GAO does not recommend that departments use a “bright line” definition of an FBO when collecting data on grantees. Our report acknowledges the efforts federal agencies make to collect accurate data on grants awarded to FBOs, including the voluntary survey used by all the agencies in our review (see page 44). However, as we note in the report, producing credible data on outcomes achieved through federal programs has historically been a challenge for the federal government. Various parties, including former officials from the White House Office of Faith-Based and Community Initiatives, have raised concerns about the accuracy of, and the methods used to collect, data on FBOs. Our report calls for efforts among federal agencies to develop an improved method for identifying which organizations are faith-based. We note that this can be achieved through several options, including ones that do not require that agencies define what constitutes an FBO. Justice also raises the possibility that the initiative’s progress can be measured as long as the department distinguishes between public agencies and nongovernmental organizations. However, this is not how the initiative is currently being measured. The PMA lays out the long-term goals of the initiative, one of which specifically cites greater participation by faith-based and community organizations. The White House published data on the number of FBOs receiving direct federal grants for selected agencies in 2003-2005 but has not published data on the number of grants received by government versus non-governmental organizations.
5. We revised the text on page 8 to reflect our findings in the report on the number of pilot program evaluations under way or completed. We believe that table 7 on page 48 accurately reflects the status of the evaluations to the extent possible based on the limited information provided by some of the departments on many of these evaluations. In addition, we added a sentence on pages 8 and 46 that acknowledges the time it may take to collect outcome-based data and the fact that many of the pilot programs began recently.

6. We discussed with Justice officials various competitive programs before deciding to review the Community Corrections Contracting program. We requested and Justice officials provided to us detailed information on several competitive grant programs, including information on the Community Corrections Contracting program. We chose this program because, in 2004, at least three times as many FBOs received grants from this program than any other Justice program in that same year.
7. Appendix II of the draft report provided information on the grant program and department from which each of the 26 FBOs received its award or contract and table 3 (see page 24) shows whether the grant was a project grant, formula grant, or contract.
8. GAO believes that including information on these safeguards in grant documents will improve grantee understanding of the equal treatment regulations. Given that Justice's equal treatment regulations contain an exception to the safeguard related to the prohibition on organizations providing inherently religious activities unless separate in time or location from federally funded services, we believe that an explanation of this exception should be included in the contracts for Justice's correctional programs. We do not recommend that an explanation of this exception be included in every program document, as Justice asserts. Rather, our recommendation clearly states that an explanation of the exception should be included in the contracts for Justice's correctional programs. Justice states that the Bureau of Prisons is open to discussing possible changes to its contract language to further clarify the scope of the exception for community corrections centers.

# Appendix V: Comments from the Department of Education



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF THE SECRETARY

May 25, 2006

Ms. Cynthia M. Fagnoni  
Managing Director  
Education, Workforce, and Income Security Issues  
Government Accountability Office  
Washington, DC 20548

Dear Ms. Fagnoni:

Thank you for the opportunity to review and comment on the draft report, *Faith-Based and Community Initiative: Improvements in Monitoring Grantees and Measuring Performance Could Enhance Accountability* (GAO-06-616).

The Department of Education has worked to provide faith-based and community organizations (FBCOs) the opportunity to compete for federal funding on a “level playing field,” with equal opportunities compared to other eligible entities. As your report indicates, when FBCOs apply for funding opportunities, our Department uses the same general processes to evaluate grant applications from faith-based organizations as we do applications from other entities and organizations and we do not establish quotas or set aside specific funds for faith-based organizations.

With respect to your recommendations, the Department does not agree that it is necessary to provide additional information on the Department’s equal treatment regulations in the grant documents for amenable programs. The Department already sets forth in the Education Department General Administrative Regulations (EDGAR) the equal treatment regulations, and this guidance is applicable to all grant programs. As we indicated in discussions with the GAO staff, the Department takes many steps to make its regulations and other key documents well known to applicants and grantees. In addition, the Department notes that it imposes no comparable safeguard in any other context.

Furthermore, the Department finds no basis for requiring greater oversight and monitoring of faith-based organizations than of other program participants simply because they are faith-based organizations. All program participants are monitored for compliance with program requirements, and no program participant may use Department funds for any ineligible activity, whether that activity is an inherently religious activity or a nonreligious activity that is outside the scope of the program at issue. There is no indication that any ineligible activity or any activity outside the scope of the program at issue was found by GAO.

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*Our mission is to ensure equal access to education and to promote educational excellence throughout the nation.*



Page 2

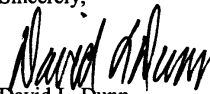
All program participants receiving funding from various sources and carrying out a wide range of activities must ensure through proper accounting that each set of funds is applied only to the activities for which the funding was provided. Applicable policies, guidelines, and regulations prescribe the cost accounting procedures that are to be followed in using Department funds.

This system of monitoring is more than sufficient to address your concerns, and the amount of oversight of religious organizations necessary to accomplish these purposes is no different from that involved in other publicly funded programs that the Supreme Court has upheld. Also, the Department has trained, and provided detailed information (e.g., program memoranda) on the equal treatment regulations to, the program staff and is providing training on programmatic and financial management to the program staff which applies to all of the Department's discretionary grant programs.

We have also enclosed technical comments to the report.

We appreciate GAO's analysis and work on this matter.

Sincerely,

  
David L. Dunn  
Chief of Staff

Enclosure

# Appendix VI: Comments from the Department of Health and Human Services



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of the Secretary

Center for Faith-Based and  
Community Initiatives

June 6, 2006

Ms. Cynthia M. Fagnoni  
Managing Director  
Education, Workforce, and Income Security Issues  
Government Accountability Office  
Washington, DC 20548

Dear Ms. Fagnoni:

Thank you for the opportunity to review and comment on the Government Accountability Office (GAO) draft report, *Faith-Based and Community Initiative: Improvements in Monitoring Grantees and Measuring Performance Could Enhance Accountability*, (GAO-06-616). A primary objective of the Faith-Based and Community Initiative is to “level the playing field” so that faith-based and community organizations (FBCOs) can compete on an equal basis for federal funding. The Department of Health and Human Services (HHS) has made this Initiative a priority and the results of our effort are captured in key findings of the GAO report. First, program offices within HHS use the same criteria to evaluate grant applications from faith-based organizations as they do applications from other organizations. Furthermore, the report found that HHS does not establish quotas or set aside specific funds for faith-based organizations. They must compete on the same basis as any other group for federal funding. Each of these findings confirms that the “level playing field” has been established at HHS.

As the Center at HHS continues working to maintain the level playing field, HHS believes it provides sufficient information on the Department’s Equal Treatment regulations within program documents. In fact, some program announcements now include specific references to components of the regulations. The Department believes there is no basis in federal law or any other justifiable rationale to require a higher standard of oversight as compared to other regulations and rejects the notion that organizations that appear to have a religious name, motivation, or mission statement should be targeted for special scrutiny, as the report appears to imply. The regulations actually require that faith-based organizations be treated no differently than secular organizations. Of course, no grantee may use Department funds for any ineligible activity, whether the ineligible activity is to impermissibly engage in an inherently religious activity, or to engage in any other impermissible activity.

200 Independence Avenue, SW, Room 118F, Washington, DC 20201  
Phone: (202) 358-3595 FAX: (202) 401-3463

Page 2 – Ms. Cynthia M. Fagnoni

To ensure that the Department and its grantees understand and implement Equal Treatment regulations fairly and equally, HHS has developed Equal Treatment regulation training and guidance materials and implemented training programs throughout the Department for program officials and grantees to ensure appropriate monitoring and compliance. Similarly, HHS participates in the overall Initiative efforts to provide training and technical assistance to State and local officials who administer federal program funds. Together these efforts represent a concerted attempt to maximize awareness of, and compliance with, the regulations.

Finally, HHS believes that GAO's recommendation suggesting the need to establish a uniform definition of a faith-based organization in order to better measure progress toward the two long term goals of expanding FBCO participation and improving service outcomes would likely prove problematic and provide questionable benefit. The objective of the current data collection process is to generally assess trends toward the interim goal of expanding opportunities for FBCOs to compete on an equal basis for federal funding. Further, the Department believes it is inappropriate to establish arbitrary participation goals and that improved outcomes should be the objective of all programs and service providers and will be the result of many variables other than just an organization's classification.

Enclosed are HHS's technical comments on the draft report.

Sincerely,



C. Gregory Morris  
Director

# Appendix VII: Comments from the Department of Housing and Urban Development



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
WASHINGTON, DC 20410-0500

OFFICE OF GENERAL COUNSEL

May 22, 2006

Ms. Cynthia M. Fagnoni  
Managing Director  
Education, Workforce, and  
Income Security Issues  
U. S. Government Accountability Office  
441 G Street, NW  
Washington DC 20548

Dear Ms Fagnoni:

Thank you for providing the U. S. Department of Housing and Urban Development (HUD) with a draft copy of the report of the Government Accountability Office (GAO) entitled *Faith-based and Community Initiative: Improvements in Monitoring Grantees and Measuring Performance Could Enhance Accountability*, and the opportunity to review this report. Several HUD offices were involved in the review of this report, and submitted comments on the report. This letter and the attachment to this letter present HUD's comments on the draft report.

As an initial comment, the title given to the report reflects an overall recommendation that appears to be based on a misunderstanding of the mission of the Faith-Based and Community Initiative (Initiative) and a recommendation that is not supported by the scope of GAO's review. The basic premise of the Initiative, established at its inception, is that faith-based and community organizations should have the opportunity to participate on an equal footing with all other applicants and awardees in the federal grants process. Equal footing or equal treatment means that faith-based and community organizations are treated the same as their secular counterparts, not differently, and equal treatment in the federal grant process encompasses how they are monitored as grantees.

The report's recommendations with respect to monitoring, if followed, would have the effect of establishing unequal treatment of faith-based organizations, merely on the basis of presumed or confirmed religious affiliation. This recommendation runs completely counter to the purpose of the Initiative and what the Initiative has strived to achieve and has achieved to date.

The GAO report also appears to be vague at several critical junctures. For example, on the report's summary page and throughout much of the report, GAO states that the Initiative "provides grantees with some information on the safeguards designed to protect FBOs, beneficiaries, and the government," without readily defining or enumerating what those safeguards are. The report also states that the Initiative's long-term goal is "increasing participation of faith-based and community organizations," but fails to reference the wider context of the Administration's well-stated and repeatedly stated goal of the Initiative, which is to remove barriers, level the playing field, and provide technical assistance to faith-based and other community organizations interested in partnering with the federal government to deliver social services.

[www.hud.gov](http://www.hud.gov)

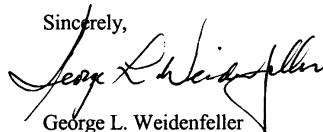
[espanol.hud.gov](http://espanol.hud.gov)

The Department was pleased to read the report's findings that HUD's activities under the Initiative were carried out under guidelines that GAO found to be appropriate safeguards. Nevertheless, HUD remains concerned with the overall recommendation of the report, which is that faith-based organizations be monitored more rigorously, without sufficient presentment of support for this recommendation. The report does not establish the necessity of exceptional treatment and the methodological certainty or probability that such treatment would deliver results that the GAO finds desirable. In this respect, the Department is concerned that the report will not serve the public well, because it will perpetuate a misunderstanding about the mission of the Initiative and casts unmerited suspicion as to whether faith-based organizations and the federal government itself are in compliance with federal law.

Specific comments on various sections of the report are attached as HUD's technical comments on the report. Your consideration of the comments in this letter and in the attachment in the development of the final report is appreciated.

Thank you again for the opportunity to review and comment upon the draft report.

Sincerely,



George L. Weidenfeller  
Deputy General Counsel for Operations

Attachment

# Appendix VIII: Comments from the Department of Labor

U.S. DEPARTMENT OF LABOR  
OFFICE OF THE DEPUTY SECRETARY  
WASHINGTON, D.C.  
20210

**MAY 26 2006**

Ms. Cynthia M. Fagnoni  
Managing Director  
Education, Workforce, and Income Security Issues  
U.S. Government Accountability Office  
441 G Street, NW  
Washington, DC 20548

Dear Ms. Fagnoni:

Thank you for providing the draft report GAO-06-616, titled "Faith-Based and Community Initiative: Improvements in Monitoring Grantees And Measuring Performance Could Enhance Accountability." Overall, the GAO study highlights important issues for further refinement of the initiative's ongoing, expansive efforts.

Most notably, the draft report offers a confirmation of the Faith-Based and Community Initiative's (FBCI) foundational goal: a fair and "level playing field" for all organizations seeking to partner with government to provide social services. Although receiving limited attention in the draft report, the most significant aspect of the study is what GAO's investigation did not find. In all of its research, interviews, document reviews, site visits, and other inquiries, the GAO found no evidence of discrimination in favor of, or against, any organization on the basis of religion, and no hint of political or other inappropriate motivations within the grant-making processes. A "level playing field" proved to be the rule.

Also important to note, the GAO study did not find any evidence of religious discrimination in employment decisions made by recipients of DOL support, as required by Section 188 of the Workforce Investment Act (WIA). While recommending greater clarity and consistency across agencies in explaining the hiring rights of faith-based organizations (FBOs), the GAO discovered full compliance with the laws governing the hiring rights of FBOs.

The department has already drafted detailed revisions for monitoring tools and guidance provided to regional and state staff to enhance existing efforts to ensure full compliance with all facets of the equal treatment regulations. Having already trained more than 1,200 grant recipients, workforce officials, and non-profit staff, DOL will be advancing a more extensive training program for Federal, state, and local administrators of DOL support over the next year to further strengthen the workforce system's understanding of the equal treatment regulations.

However, DOL strongly believes that organizations that appear to have a religious name, background, or motivation should not be singled out for special scrutiny, as the GAO report implies. Rather, expectations and guidelines regarding appropriate and inappropriate use of federal aid must be made clear and applied with a diligent equality to all organizations. The complexity of distinguishing "faith-based" from "secular" organizations is an issue the GAO itself notes.

For this reason, DOL appropriately relies on self-identification for data collection purposes whenever possible, just as the government does for classification of individuals based on demographic characteristics, such as race, gender, and national origin. As the GAO notes, this does not produce a wholly objective, scientific basis for categorizing grantees as faith-based or not. The simple truth is that no such basis exists. Even so, self-identification can provide a sound basis for observation of trends. This is particularly true because the object of the FBCI is not to funnel funds to faith-based organizations, but to create a "level playing field" and new opportunities for participation for all

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Appendix VIII: Comments from the  
Department of Labor

organizations. While the taxonomy of a particular grantee may be questioned, there can be no doubt that both faith-based and secular community organizations have significantly increased their participation in DOL programs in recent years.

With regard to evaluation efforts, the DOL strongly affirms the GAO's encouragement to continue advancing the outcome-based evaluations of pilot programs, as well as evaluations of other programs that have been impacted by the presence of new FBCO partners. Outcome-based evaluations of two of DOL's four current pilot projects are in progress, and a third will begin soon. In addition, DOL has undertaken process evaluations of a number of programs for which full outcome evaluations would be cost prohibitive.

The significant time required to mature pilot programs and complete scientific outcome evaluations should not obscure the fact that hundreds of thousands of Americans' lives have been positively impacted by the social services of faith-based and secular community organizations working in partnership with the federal government. While overlooked in the GAO report, DOL collects quarterly data from all grantees, including OMB "common measure" outcomes: employment entered, earnings increased, jobs retained and other results achieved through the federally-funded services of FBCOs. DOL is confident that the positive outcomes shown by this data will be affirmed and highlighted as more formal studies are completed.

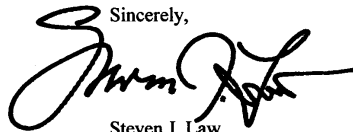
In conclusion, DOL acknowledges the draft report's confirmation that the first overarching outcome sought by the initiative—a fair and "level playing field" for all organizations that are willing and able to partner with the government—has taken root in all of the programs it studied.

This "level playing field" has enabled a vast expansion of partnerships between DOL and FBCOs nationwide, cultivated by aggressive outreach and technical assistance, application of the equal treatment regulations, analysis of data collected on DOL grants, creation of innovative pilot programs, and ongoing program refinement through research and evaluation. Each step within this expansive endeavor is guided and measured by OMB's "standards for success."

Most important of all, however, is the difference these partnerships make in the lives of Americans in need. DOL research shows that FBCOs are uniquely able to provide close cultural connections to underserved communities, personalized care and services, and other assistance that complement the One-Stop Career Center system. The more expansive reviews now underway, such as the GAO report, will deepen and refine our understanding of the full benefits and strengths of these partnerships, as well as areas that merit further attention.

Enclosed are DOL's technical comments on the draft report. If you would like additional information, please do not hesitate to call the director of the DOL Center for Faith-Based and Community Initiatives at 202-693-6450.

Sincerely,



Steven J. Law  
Deputy Secretary of Labor

Enclosure

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# Appendix IX: GAO Contacts and Staff Acknowledgments

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## GAO Contact

Cynthia M. Fagnoni (202) 512-7215, FagnoniC@gao.gov

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## Staff Acknowledgments

In addition to the contact named above, Andrew Sherrill, Assistant Director, and Elizabeth Morrison, managed this assignment. James Whitcomb, Lauren Jones, and Robert Sampson made significant contributions to this review. Richard Burkard and Jim Rebbe assisted in the legal analysis, Jean McSween provided methodological support, and Jonathan McMurray assisted in report development.



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