

**Opening Statement**  
**Chairman Mark Souder**  
**“Legal and Practical Issues Related to the Faith-Based Initiative”**  
**Subcommittee on Criminal Justice, Drug Policy**  
**and Human Resources**  
**Committee on Government Reform**  
**March 23, 2014**

The debate over the role of faith-based organizations in the provision of social services continues to be as heated today as it was three years ago when the President announced the creation of the White House Office of Faith-based and Community Initiatives. Even as the debate continues, what we know for certain is this: the need for social services will never fully be met. The government, acting alone, cannot begin to help meet the needs of the countless men and women who are facing addiction, homelessness, hunger, or illness.

Many faith-based and community organizations across our nation understand that they have a duty to help those who are less fortunate than they are. We are a nation richly blessed, not only with government resources, but also with caring individuals who dedicate their lives to helping others. Through charitable choice and the faith-based initiative, the government has recognized the tremendous resource it has in its faith community, and in neighborhood-based organizations. These groups have the ability to reach out to men and women that the government may never know exist.

We know that for decades the government has worked with large faith-based organizations like Catholic Charities and Lutheran Social Services to provide care to those in need. The faith-based initiative is designed to bring neutrality to the government grant system so that smaller community and faith-based organizations can expand their capacity to help people in their communities that might otherwise be overlooked.

Neutrality towards all applicants, requires that government partner only with secular organizations, in effect recognizing a state-sponsored secularism, but it demands that government look at the merits of each program—is the program helping substance abusers kick addiction? Is it helping a homeless woman find a home and a job? Is the program making a difference in the life of a child who has lost a parent to prison?

The government does have a responsibility to ensure that its dollars are being spent in a manner consistent with the Constitution. This is why technical assistance and education are key elements of the faith-based initiative. Every organization has the responsibility to think carefully about whether a government grant is a good thing for their organization before they apply. Organizations like the FASTEN have produced training and educational materials for faith-based and community organizations that include a list of questions that organizations should think carefully about before they decide to jump into the fray of competing for government grants, as well information on what due diligence will require as they administer a grant. The White House also instructs potential applicants to consider carefully what a partnership with the government will mean for their organization. In terms of financial aid, I believe the most effective way that government can assist faith-based and community organizations is through tax credits and vouchers. These forms of aid reduce significantly government intrusion into the daily operation of the provider and puts the choice of which program to use and where to send private contributions in the hands of the men and women who need the services and want to support a social ministry with their personal dollars.

For some time, we have heard opponents of government partnerships say “faith-based organizations have long had the ability to partner with the federal government. All they need to do is form a separate 501(c)3, and conduct themselves as though they were secular, and there is no problem.” Well, we’re starting to see that even if a faith-based organization takes the precaution of forming a separate organization to handle the social services it desires to provide, that everything may not be all right. Catholic Charities is an organization that for decades has been held up as an example—even by critics of the faith-based initiative-- of how government partnerships with faith-based organizations are working, because they held the service arm of the organization under a separate incorporated organization. Now the California Supreme Court has said that because Catholic Charities offers secular services to clients, the majority of whom are not Catholic, and does not directly preach Catholic values it is not a religious organization for the Court’s purposes and therefore must provide services contrary to Catholic teachings. This intrusion into the right of an organization to define its very identity should frighten leaders of all organization, faith-based and community alike.

This case illustrates the danger we face when government attempts to intrude upon the right of a religious organization to define itself. Not all faith-based

organizations hire only members of the same faith, but the vast majority of faith-based organizations desire to hire employees who embody the mission of that organization. It has been argued that if providing services to individuals of all faiths does not alter the integrity of a faith-based organization, neither should a requirement that a faith-based organization hire individuals of any faith. After all, critics say, the soup is still served and the person is still fed. This argument is faulty. For any faith-based or community organization to hire employees who are dedicated to upholding the values of the organization is not discrimination, but a basic right of liberty. Justice Brennan wrote in *Corporation of Presiding Bishop v. Amos*, “Determining that certain activities are in furtherance of an organization’s religious mission and that only those committed to that mission should conduct them is . . . a means by which a religious community defines itself.”

The government is acting in an even-handed way when it permits all organizations it funds, religious as well as secular, to hire staff devoted to their respective missions. Abortion rights organizations do not lose their ability to screen out pro-life applicants when they accept government funds. In the same way, faith-based service groups should not lose their religious staffing liberty if they accept federal grants. Keeping religious staffing legal is the only way to ensure equal opportunity and effectiveness for all organizations and to respect the diversity of faith communities that are part of our civil society.

Today we will discuss a variety of viewpoints related to the faith-based initiative. We will discuss the legal questions that accompany the initiative, and we will examine how the initiative is actually playing out, both in a research sense, but also at the most critical level—the neighborhood level. We will hear from two organizations that are living out the initiative on a daily basis. I know that faith-based and community organizations are making a difference in the lives of thousands of Americans. What we need to work towards is how best to structure the relationships between these organizations and the government. Our discussion today should be a lively discussion about how that can be accomplished.