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Federal Faith-Based Funding Aims to Level the Charitable Playing Field

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ally see Malcome. "Well...?"

The public defender elbowed Malcome.

Malcome looked at the public defender, who indicated the judge, and so Malcome looked up and saw this great, tall, tower of black robes rising towards the ceiling.

"Well...?" Shouted the judge.

A dismayed Malcome stood silently.

The public defender elbowed him, and said: "I'm sorry."

Malcome's confusion was palpable.

"Say I'm sorry," said the public defender.

"I'm sorry," said Malcome, never taking his eyes off the public defender.

"To the judge," hissed the p.d.

"I'm sorry," snapped Malcome, to the heap of impatience and robes.

The judge sat down. Malcome could no longer see him. The judge said: "Malcome Jones. I hereby sentence you to 3 years in the Illinois Department of Corrections. You will get credit for time served while awaiting trial. You have thirty days to appeal this sentence. Anything else?"

"No judge," said the state.

"No judge," said the public defender.

"No judge," said Malcome.

The public defender elbowed Malcome, who turned toward him, his big head tilted like a globe.

"Mitt to issue," said the judge to the sheriff.

Malcome turned to look up to where he heard the voice of the judge. "What?" Asked Malcome to the judge.

"Mitt to issue," repeated the judge.

"I'll miss you, too" said Malcome.

Federal Faith-based Funding Aims to Level the Charitable Playing Field

Katherine Licup

"Faith-based and other community organizations are indispensable in meeting the needs of poor Americans and distressed neighborhoods. Government cannot be replaced by such organizations, but it can and should welcome them as partners. The paramount goal is compassionate results, and private and charitable community groups, including religious ones, should have the fullest opportunity permitted by law to compete on a level playing field, so long as they achieve valid public purposes, such as curbing crime, conquering addiction, strengthening families and neighborhoods, and overcoming poverty."

- President George W. Bush, Jan. 29, 2001¹

On Chicago's depressed West Side, faith-based Bethel New Life, Inc., has brought more than \$100 million into the community, placed 7,000 people in jobs, and developed more than 1,100 affordable housing units, including a senior residential center 90-percent financed with \$9.5 million of Department of Housing and Urban Development funds.² In 2002, the Department of Labor issued Jewish Vocational Service and Employment Center and Catholic Charities more than \$820,000 and \$740,000 in Title V grants, respectively, to help low-income senior citizens find jobs.³ Last year, the Department of Health and Human Services awarded Milwaukee's Holy Redeemer Institutional Church of God in Christ a \$600,000-plus Compassion Capitol Fund grant to strengthen faith-based and community social service organizations in five Wisconsin counties.⁴

While some faith-based organizations that provide social services to the needy have been receiving federal money for years, until recently others were banned from receiving such funds because they had a religious mission. For example, Mary Nelson, president and chief executive officer of Bethel New Life, said her organization has been faith-based

since its inception and has done four projects funded by HUD 202 grants, which are designated for nonprofit agencies that build housing developments for the low-income elderly. One project was completed 20 years ago.⁵ In contrast, federal grant-issuers once told faith-based Orange County Rescue Mission in Los Angeles, which provides more than 400,000 meals a year to the hungry, that they were ineligible for funds unless they agreed to form a secular nonprofit, ban all religious activity, and call their chapel an auditorium.⁶

To balance the scales, one of President Bush's first acts when he took office was to establish the White House Office of Faith-Based and Community Initiatives (OFBCI).⁷ OFBCI is responsible for leading "a determined attack on need" and ensuring that faith-based organizations previously ineligible to receive federal funds for social service programs are now able to compete on a level playing field with secular nonprofits.⁸ OFBCI has established faith-based offices in the Departments of Justice, Agriculture, Labor, Health and Human Services, Housing and Urban Development, Education, and the Agency for International Development.⁹ These offices provide

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guidance and coordination for faith-based and community organizations that seek to apply for federal grants.

Challengers to this initiative say, however, that faith-based programs receive preferential treatment by the current administration, and that federal funding of religious institutions is a violation of the Constitution's guaranty of separation between church and state. Americans United for the Separation of Church

"The goal is to level the playing field and remove barriers like a cross on a wall or a menorah... To make things faith friendly, not faith preferential."

and State, a group devoted to the defense of religious liberty and church-state separation, believes that unproven religious organizations are ciphering money away from reputable, secular social-service agencies. The group argues that contributions to any faith-based organization should be strictly voluntary, even if the organization offers important social services to its surrounding community.

"The administration's 'faith first' bias puts the least fortunate among us in a difficult spot," said an editorialist in September's issue of Church and State. "It's clear that the new preference for funding religious groups is going to leave those running non-religious programs out in the cold; thus, if you're in need of help, you'd better be prepared to go to church, listen to a sermon or say some prayers."¹⁰

The government rejects the notion that faith-based organizations will receive an unfair advantage in the funding process, and emphasizes that applying for grants is a competitive process. All organizations—religious or not—compete for money from the same pool of available funds,

which has not grown since the advent of the new rules.

Perhaps to respond to critics, the President signed another executive order that guaranteed, in accordance with the First Amendment's Establishment Clause and Free Exercise Clause, that organizations engaging in inherently religious activities, such as worship, religious instruction, and proselytization, must offer those services separately in time and location from services supported with federal funds.¹¹ The order emphasizes, though, that faith-based and other community organizations providing social service programs will not be discriminated against on the basis of religion or religious beliefs.

"The goal is to level the playing field and remove barriers like a cross on a wall or a menorah," said Kenneth Brucks, Department of Housing and Urban Development's Region V faith-based coordinator. "To make things faith friendly, not faith preferential."¹²

Brucks' job title alone, though, is illustrative of one way where faith-based and community organizations have gained an advantage in competing for funds. OFBCI has encouraged each executive department to provide training and information to faith-based and community organizations on applying for federal grants. On Jan. 21 and 22, the Department of Housing and Urban Development held a grant-writing conference in Chicago for faith-based groups. More than 100 people attended the training, which included a step-by-step review of a successful grant application. Other executive departments provide training and information on their Web sites. OFBCI even has traveling trainers to educate people about the President's initiatives; upcoming conferences are scheduled in Phoenix and Los Angeles.¹³

Despite the additional training opportunities, the number of Housing and Urban Development grants issued to faith-based organizations in the past few years have

remained steady at about 15 to 16 percent of the total awarded. In 2003, 600 grants worth over \$168 million were issued to faith-based organizations of more than \$1.27 billion awarded.¹⁴ In 2003, Illinois received a record \$65.6 million in Emergency Shelter Grants and Continuum of Care grants, which provide permanent and transitional housing to homeless persons.¹⁵ Local officials were not able to say how many of those 220 grants were for faith-based organizations.

Professors Ira Lupu and Robert Tuttle of The George Washington University Law School believe that some upcoming judicial decisions involving state constitutions may impact the White House's faith-based initiatives.¹⁶ Thirty-seven states have constitutional provisions that explicitly forbid state financing of religious institutions. The Supreme Court will touch on the church-state separation issue when it rules on *Locke v. Davey*, which involves the state of Washington's decision to prohibit recipients of Promise Scholarships, available to low- to middle-income students who attend an accredited post-secondary institution in the state, from studying theology.¹⁷ In *Locke*, scholarship recipient Joshua Davey sued the state after Assemblies of God-affiliated Northwest College refused to certify him for the scholarship because he wanted to major in pastoral studies. The district court sided with the state, but the Ninth Circuit reversed and held "that because the program excluded only theology majors at religious schools, the program discriminated against the study of religion, and therefore burdened students' free exercise of religion."¹⁸ Oral arguments were held before the Supreme Court in December, and a ruling should be issued shortly. If the Supreme Court's ruling is broad, it may have an impact on federal funding for faith-based programs.

Meanwhile, as the nation continues to wrestle with the proper scope of government funding of reli-

gious institutions, both faith-based and secular agencies continue to feed the hungry, employ the jobless, shelter the homeless, educate the disadvantaged and empower the disabled; and while the competition for grants may have grown, the more important question is how to serve so many disadvantaged people.

“There are more groups trying to do more with less,” said Nelson of Bethel New Life. “There are drastic and unacceptable shortages of affordable housing for low-income families and seniors. What is really important is that HUD and the federal government have fewer dollars for any kind of programs or efforts with low-income people, whether they be faith-based or not.”

1. Exec. Order No. 13199, 66 Fed. Reg. 8499 (Jan. 31, 2001), available at <http://www.whitehouse.gov/news/releases/2001/01/20010129-2.html>.

2. Bethel New Life, Inc., About Bethel, at <http://www.bethelnewlife.org/about.html>.

3. Press Release, Senior Service America, *Faith-Based Groups Help Chicago Seniors Find Jobs* (Sept. 19, 2002), at <http://www.seniorserviceamerica.org/news/nwschicago.html>.

4. Press Release, U.S. Dept. of Health and Human Services, *HHS Awards Grants to Improve the Capacity of Faith and Community-based Organizations to Serve People in Need* (Sept. 22, 2003), at http://www.acf.hhs.gov/programs/ccf/citizens/citiz_ios/citiz_ios_hricgc.html.

5. E-mail from Mary Nelson, President and CEO, Bethel New Life, Inc., to Katherine Licup (Jan. 23, 2004) (on file with the author).

6. Press Release, White House, *Fact Sheet: White House Office of Faith-based and Community Initiatives* (Sept. 22, 2003), at <http://www.whitehouse.gov/news/releases/2003/09/20030922-1.html>.

7. Exec. Order No. 13199, 66 Fed. Reg. 8499 (Jan. 31, 2001), available at <http://www.whitehouse.gov/news/releases/2002/12/20021212-6.html>.

8. White House, *President Bush's Faith-Based and Community Initiative Overview*, at http://www.whitehouse.gov/government/fbci/our_page_ofbci.pdf (last visited Jan. 30, 2004).

9. White House, White House Office of Faith-Based Initiatives, at www.fbci.gov (last visited Jan. 30, 2004).

10. *Faith-based Bias: How the White House is Tilting the Playing Field, Church and State*, Sept. 2003, at <http://www.au.org/church-state/03-09-editorial.htm>.

11. Exec. Order No. 13279, 67 Fed. Reg. 77,141 (Dec. 16, 2002).

12. Telephone Interview with Kenneth Brucks, Region V Community and Faith-Based Initiatives Coordinator, Dept. of Housing and Urban Development (Jan. 22, 2004).

13. White House, Conference Home Page, at <http://www.dtiassociates.com/fbci/index.cfm> (last visited Jan. 30, 2004).

14. Anne Farris, *Federal Homeless Grants Target Faith-Based Providers, The Roundtable on Religion and Soc. Welfare Pol'y*, Jan. 12, 2004, at http://www.religionandsocialpolicy.org/news/article_print.cfm?id=1162.

15. Press Release, U.S. Dept. of Housing and Urban Development, *Illinois Receives Record of More than \$65.6 Million to Help the Homeless* (Dec. 19, 2003), at <http://www.hud.gov/local/il/news/2003-12-19.cfm>.

16. Ira Lupu and Robert Tuttle, *Legal Update: A Preview of the Pending Supreme Court Decision in Locke v. Davey, The Roundtable on Religion and Soc. Welfare Pol'y*, Oct. 14, 2003,

at http://www.religionandsocialpolicy.org/legal/legal_update_print.cfm?id=20.

17. *Locke v. Davey*, 299 F.3d 748 (9th Cir. 2002), cert. granted, 71 U.S.L.W. 3589 (U.S. May 19, 2003) (No. 02-1315).

18. Ira Lupu and Robert Tuttle, *Legal Update: A Preview of the Pending Supreme Court Decision in Locke v. Davey, The Roundtable on Religion and Soc. Welfare Pol'y*, Oct. 14, 2003, at http://www.religionandsocialpolicy.org/legal/legal_update_print.cfm?id=20.

CHA's "Plan for Transformation": A Status Report

Karine Polis

In 1995, the Chicago Housing Authority (CHA) began to relocate public housing residents in order to rebuild CHA buildings. The CHA sought to renew the physical structure of their properties and promote self-sufficiency for public housing residents by replacing high-rise structures with mixed-income town homes and low-rise buildings.¹ Using Section 8 vouchers, public housing residents vacated high-rise structures and were relocated under the CHA's "Plan for Transformation."² Roughly 3,200 families were relocated from the high-rises to private housing units using Section 8 vouchers.³ One of the primary goals of the CHA's plan is to end racial and class isolation, but critics argue that these families are being relocated to areas that are overwhelmingly African-American and poor.⁴

In October 1999, the CHA enacted a Relocation Rights Contract, an initiative that is part of the Plan for Transformation that grants CHA residents the right to return to their communities after the demolition and rehabilitation process is complete.⁵ Approximately 25,000 families have relocated under the Relocation Rights Contract,⁶ however the same pattern of relocation into disproportionately poor communities with an overwhelmingly African-American racial composition is apparent with this group as well.⁷ Many public housing residents were enraged with what they perceived as a "perpetuation of

segregation" and filed a class action lawsuit in 2003 to confront the CHA on their empty promises, *Wallace, et al. v. The Chicago Housing Authority*.⁸

According to the CHA, the Plan for Transformation "represents a new beginning for public housing in Chicago and it provides an opportunity to change the stigmas of the past and create a new culture of success and hope" for CHA residents.⁹ The CHA formed partnerships with other city agencies to offer residents services including employment assistance, substance abuse counseling, and guidance on how to become lease compliant. The demolition of the CHA high-rises to create mixed-income communities and rehabilitation of dilapidated CHA low-rises will ideally provide CHA residents with greater economic opportunities and a safer and more prosperous living environment. Also, all individuals who remain lease compliant and pass the CHA's screening process will have an unequivocal right to return to these newly constructed areas.¹⁰ To pass the CHA's screening process, all individuals over the age of eighteen that are listed on the lease must pass a drug test, undergo credit