



# **The Roundtable**

**on Religion and Social Welfare Policy**

## **Government Partnerships with Faith-Based Organizations in New York State**

**A Case Study**

**By Lisa M. Montiel  
Research Scientist**

**An independent research project of the Rockefeller Institute of Government  
Supported by The Pew Charitable Trusts**

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*April 2004*

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### I. INTRODUCTION

Sweeping welfare reforms enacted by Congress in 1996 included a provision – Section 104, since popularized as the “Charitable Choice” provision – designed to encourage partnerships between state governments and religious organizations involved in social service work. Though it gained little attention at the time, references to the Charitable Choice provision have since become synonymous with the broader idea of government partnerships with faith-based organizations overall. In New York State’s case, this is to see things in overly simple terms.

Few overt indications of “Charitable Choice implementation” are visible in New York State. One will not find evidence in New York of legislation mandating eligibility of faith-based organizations (or FBOs) to apply for contracts, executive orders issued by the governor directing his agencies to undertake policies or activities to engage FBOs, or establishment of an Office of Faith-Based Initiative.

However, a deeper look reveals that the Empire State has a long history of actively partnering with faith-based organizations for the delivery of social services, both with and without publicly-funded contracts. FBOs, in the view of state government officials in New York, are significant providers of social services because they have the resources and dedication to assist the needy, not because they are religious organizations.

This study by the Roundtable on Religion and Social Welfare Policy found little evidence to suggest that FBOs as a group have met with obstacles in their efforts to participate in New York’s grant- and contract-funded social service programs. There has been one well-publicized instance in New York of a group – the Metropolitan Council on Jewish Poverty – reportedly being turned down for a grant because the organization had “Jewish” in its name. However, this involved a federal grant, not one administered by New York State. In fact, the Metropolitan Council on Jewish Poverty received over \$13 million in 2002 in New York state-funded contracts and grants.

While New York does not have a centralized, state-level faith-based office, individual state agencies and county departments have decentralized offices and staff available to assist faith-based organizations. The State has centralized certain outreach activities to FBOs, holding technical assistance conferences and maintaining mailing lists. And, the state agency responsible for the majority of

welfare programs has explicit written guidelines for complying with the provisions of Charitable Choice.

The size and complexity of social services in New York provide a challenging environment in which to research the topic of faith-based service partnerships. Direct provision of many social services is mainly the responsibility of county governments in New York, although a high level of contracting occurs through the state as well. And while the Empire State boasts the largest city in the nation, the majority of the state is rural. As such, the manner in which social services are delivered varies considerably across New York.

The next section of this paper describes the social services environment in New York and the legal background relevant to faith-based providers. With that background, we then describe state activities regarding faith-based social service providers, and the contracting environment between the state and religious organizations. A focused look at the contracting environment for FBOs in one county of western New York follows. The final section discusses challenges ahead for the faith-based initiative in New York.

## **II. SOCIAL SERVICE DELIVERY IN NEW YORK**

### ***A. Environment for Providing Social Services in New York State***

In 1938, an article was added to New York's constitution that would profoundly change social welfare services in the state. The provision – Article 17, which states: “*The aid, care and support of the needy are public concerns and shall be provided by the state and by such of its subdivisions, and in such manner and by such means, as the legislature may from time to time determine*” – makes State and local governmental responsibility to care for the needy a matter of constitutional obligation. Assistance to the poor in New York cannot be denied for reasons unrelated to need; a so-called “safety net” provides a guarantee for the social welfare of New Yorkers.

As a consequence of Article 17, New York's constitution stands at odds with a central tenet of the 1996 reforms governing federal welfare programs: that eligibility for services under Temporary Assistance for Needy Families (TANF) is limited to five years of lifetime benefits. While some states have eligibility restricted to as short a time as two years, New York itself does not have a time limit. Even should a New Yorker's federal welfare benefits expire, New York State is required by law to provide a “safety net” of benefits for them. Currently in New York, individuals may receive up to two years of cash assistance under Safety Net Assistance beyond their five year TANF benefits. Once the two years expire, New York State has other methods of providing assistance, such as vouchers and two-party checks.

Although the time limits in the 1996 welfare reform law had little bearing on New York, other elements of that law were more consequential for the Empire State, with implications for FBO services. One of the basic structural requirements of the reforms was that the federal block grant to states under TANF was to be based on each state's pre-1996 caseload of welfare recipients. New York, which had high caseloads, was already funding a variety of social services for the needy due to the state constitutional requirement to do so.

When the new federal welfare reform rules took effect, moreover, each state had to spend at least 75 percent of what it had paid out in 1994 in nonfederal welfare funds. Caseloads declined considerably following the 1996 welfare reform act – reflecting the influence of the “work first” philosophy emphasizing employment experience and a generally strong economy over the ensuing four to five years. The combined effect of federal spending requirements and caseload decline was that states had to devote more resources per case, leading to an increase in social service programs, while allowing for a reserve of welfare funds at the same time.<sup>1</sup>

TANF also allows for states to compete for annual bonuses if they exceed criteria in certain categories, such as employment, child care, and marriage services. For instance, in September 2003, New York received almost \$11 million in a bonus payment.<sup>2</sup>

New York has divided – one might say overlapping or shared – responsibility for social welfare programs between the state and local governments. This has led to large administrative entities at both the state and local levels for the delivery of social services. As Robert Ward notes in his book *New York State Government: What it Does and How it Works*, “New York is unusual among the states in maintaining large administrative functions at both the state and local levels.”<sup>3</sup>

In 1997, in the wake of federal welfare reform, the State's Department of Social Services shed its prior responsibilities for Medicaid and related health programs and became the more narrowly-focused Department of Family Assistance (DFA). This new agency comprised two main offices -- the Office of Temporary and Disability Assistance (OTDA) and the Office of Children and Family Services (OCFS). OTDA housed responsibilities for cash welfare assistance, food stamps, emergency shelter, utilities assistance, domestic violence prevention and child support enforcement. Meanwhile, OCFS housed programs and services related to child welfare, including the regulation of child care, children's protective services, foster care, and adoption.

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<sup>1</sup> Ward, Robert B. (2002) *New York State Government: What it Does and How it Works*. Albany, NY: Rockefeller Institute Press, pp.318-322.

<sup>2</sup> There were states with lower welfare caseloads that received much more than New York. Connecticut, for one, received \$11.7 million and Florida received over \$28 million in these bonuses.

<sup>3</sup> *ibid*

Other state-level welfare services previously housed in the now-dismantled Department of Social Services were reassigned in the reorganization to several separate agencies and departments. Employment services for welfare clients were moved to the Department of Labor. Substance abuse services were reassigned to the Office of Alcoholism and Substance Abuse Services. Mental health services were made the responsibility of the Office of Mental Health. Public housing services were moved to the Division of Housing and Community Renewal. This move placed program responsibilities for these services within agencies that had functional expertise for those areas. However, this separation of program responsibility also meant that individuals in need of the State’s assistance would have to rely heavily on knowledgeable caseworkers to navigate them through these various components of the state bureaucracy in order for them to receive needed services.

Table 1 shows the primary state offices responsible for programs affected by Charitable Choice provisions or programs with a history of contracting with FBOs. In order to investigate the topic of this paper, contacting numerous staff in multiple agencies was required. For example, just within the Department of Labor, possible TANF programs that contract with FBOs include Built on Pride, Displaced Homemaker Program, Family Literacy, Wage Subsidy Program, Wheels for Work, and Youth Education, Employment and Training Program.

**Table 1: New York State Offices Responsible for Programs Surveyed**

<b>Program</b>	<b>Primary New York State Office</b>
Community Development Block Grant	Office of Small Cities/Governor’s Office
Community Services Block Grant	Department of State
Emergency Food and Shelter Program	private
Emergency Shelter Grant Program	Division of Housing and Community Renewal
Substance Abuse and Mental Health Services Administration	Office of Alcoholism and Substance Abuse Services
Social Services Block Grant	Office of Temporary and Disability Assistance Office of Children and Family Services
Temporary Assistance for Needy Families	Office of Temporary and Disability Assistance Office of Children and Family Services Department of Labor Office of Alcoholism and Substance Abuse Services
Workforce Investment Act	Department of Labor
Welfare to Work	Department of Labor

The multifaceted state bureaucracy is but one layer. An important element to understanding New York's social service environment is the assistance provided at the county level, which dates back to the 1800s. The state is divided into local social service districts, each of which has its own commissioner, officials, offices and divisions. In theory, this decentralization permits local tailoring and control of services. But these numerous levels of bureaucracy within the social service system come at a high price, making New York's administrative costs much higher than many other states.<sup>4</sup>

The multiple layers of government bureaucracy also make changes to the welfare system difficult to implement. Policy changes made at the state-level may take a long time to filter down to those at the local level where services are actually being delivered. Because their implementation often varies, it can be difficult to investigate components of the same social service program or policy across local jurisdictions in New York.

New York has been proficient in contracting with non-governmental organizations to provide welfare services. The actual delivery of welfare assistance throughout the state is local, but government contracting for the delivery of social services occurs at both the state and local levels. Certain TANF contracts are administered by the State (such as transportation), but many other contracts for TANF services are administered within the county-level social service districts.

### ***B. Environment for Providing Social Services in New York City***

New York City is somewhat of a special case, mostly due to its large population. In 2001, 71 percent of the state's total TANF recipients resided in the city, consuming over 67 percent of the entire state's TANF expenditures.<sup>5</sup> The State treats the City as its own social service district, and its own agency – the Human Resources Administration (HRA) – handles welfare services. Technically, though, HRA is supervised by OTDA. HRA provides welfare services mainly through its Job Centers.

Providers that work with the Job Centers tend to be large, experienced, professional organizations (for-profit and non-profit) whose main function is providing social service. And while FBOs are involved in just about all types of social services offered in the city, those receiving contracts are primarily the large, national faith-affiliated service organizations and the larger, independent religiously-affiliated non-profits.

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<sup>4</sup> *ibid*

<sup>5</sup> Nelson A. Rockefeller Institute of Government (2003). *2003 New York State Statistical Yearbook*. Albany, NY: Rockefeller Institute of Government. Table K-31.

SEEDCO is an example of a large successful intermediary in the city that networks with faith-based and community-based organizations to provide Job Center services. Last year, SEEDCO received a \$650,000 U.S. Department of Labor grant to support its service of linking FBO and CBOs to Job Centers.

Congregation-based FBOs do not tend to receive social service contracts in New York City. They are, nevertheless, treated as a valuable source of information about their communities and are seen as a valuable resource for volunteers.

Apart from the HRA, other City agencies have also been seeking partnerships with FBOs. The City's Department of Homeless Services heavily relies on faith-based organizations to provide services and has begun to track the volume of homeless individuals taken in by faith-based shelters. The City's Public Health Partnerships have actively conducted outreach to FBOs to assist them in educating community residents about health services, such as vaccinations. In addition, the City's Department of Health has conducted outreach conferences to the faith community for many years.

The New York City Administration for Children's Services has also hosted conferences to inform and strengthen partnerships with FBOs. ACS initiatives like "One Church/One Child" date back to the beginnings of welfare reform. These early attempts to involve the faith community were facilitated by then-Mayor Rudolph Guiliani, who fostered relationships between clergy and religious leaders, city agencies and the police.

### ***C. Legalities of FBOs Providing Social Services in New York State***

The history of government contracting with faith-based social service providers in New York pre-dates Charitable Choice. A review of this long history found a few, not many, instances of associated legal issues having been addressed along the way.

With regard to legislation, there has been no substantial activity in New York specific to faith-based social service providers. The only explicit language among New York's own laws is Article XI, Section 3 of the State Constitution which prohibits direct and indirect public funding of religious schools in New York.

A search of court cases revealed a few examples of legal issues related to religious activities in New York involving publicly funded services. In *DeStefano v. Emergency Housing Group, et al.* (1999), staff at a non-medical detoxification and treatment program were "strongly suggesting" that clients attend Alcoholics Anonymous (AA) -- which uses a 12-step program that requires participants to acknowledge that their treatment relies on the help of a "higher power." The AA meetings were held in the facilities of the treatment program, which itself was secular, state-licensed and funded. While the court upheld the right of the state-

funded program to have the AA meetings in its facility – and its right to encourage clients to go to the religiously-based AA meetings – the court also stated the facility’s staff could not coerce its clients to attend AA.

There were two significant issues in the court’s decision in the DeStefano case. The court found that Alcoholics Anonymous is a religious program, and it found that the staff’s direct participation in the AA meetings and the related religious activities was unconstitutional because the staff’s salaries were paid with government funds. New York’s Office of Alcoholism and Substance Abuse issued a bulletin informing its providers and local governments of the implications of the rulings in the case, warning that they can not require patients to attend Alcoholics Anonymous meetings, read or view AA material, and that staff can not supervise AA meetings.<sup>6</sup>

In another legal matter, *Coughlin v. Griffin* (1996), the New York State Supreme Court decided that an inmate did not have to attend Alcoholics Anonymous as a condition of participating in a family visitation program. Again, the court said that it considered Alcoholics Anonymous to be based in religion and noted that there was no secular alternative provided.

The prevailing attitude of New York State officials is that while religious components can exist in programs offered by FBOs, they can not be a mandatory part of the social services being paid for by public funds. In fact, many emphasized that publicly-funded services must be secular and have no religious components. This was further supported by the contract language used with some program providers which specifically requires that their services must be non-sectarian in nature.

Nonetheless, there are many instances of New York courts mandating service from a faith-based provider. The national AA website (which is based in New York City) states that 12 percent of their membership is from court orders. In western New York, Catholic Charities provides a program called “Domestic Violence Classes for Men.” The program is a New York State Domestic Violence Offender Program that only receives court-ordered clients. Similar programs exist at Catholic Charities in six other counties: Allegany, Cattaraugus, Chautauqua, Erie, Genessee and Niagara.

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<sup>6</sup> The OASAS bulletin is available at [www.oasas.state.ny.us/mis/bulletins/lb2002-05.htm](http://www.oasas.state.ny.us/mis/bulletins/lb2002-05.htm).

### III. DIFFERENCES RESULTING FROM CHARITABLE CHOICE IN NEW YORK STATE

#### A. *Early Faith-Based Initiatives*

From our interviews with government officials and review of relevant documents, passage of federal Charitable Choice provisions has not had significant, direct impact on the amount or nature of contracting with FBOs in the Empire State. In addition, the state has not scaled-down the size of contracts which would encourage smaller FBOs to participate.

Most competitive grant opportunities in New York have always required the applicant to have 501(c)(3) status. Although FBOs are not required to establish a separate 501(c)(3) structure to accept state funds, their use of an existing 501(c)(3) to accept state money would subject all of the financials for the non-profit to potential audit. There have been some instances when organizations were allowed to establish a separate account in which to receive and manage the use of public funds to protect the financials of the non-profit from any audits related to the publicly funded activity.

However, as part of the 1996 federal welfare overhaul, a number of demonstration projects were launched under Charitable Choice to involve congregations. The Division of Transitional Supports and Policy of OTDA had an early initiative that used TANF funds to contract with faith-based organizations. The following is a list of programs in New York funded through this initiative:

- In Erie County, a \$200,000 contract was granted to an FBO collaborative to assist families off of their dependency on welfare.
- Catholic Charities received \$15,000 to develop parenting plans for single-parent families in Herkimer County.
- \$20,000 went to Niagara County to “promote academic and social interaction through guidance of the church of the client’s choice.”
- Catholic Charities of Oswego County received \$26,660 for a school-based mentoring program of TANF children.
- Jewish Family Services in Rockland County was contracted with \$73,145 of TANF funds to operate a parenting program targeting Hasidic families.
- \$8146 went to Ontario County to establish a faith community coordinator. This initiated the Faith in Families program described in detail in Section IV below.

Most of these demonstration projects continued to be funded by the State or county after the pilot programs expired. The next section describes another demonstration project that involved the use of FBOs in New York City to reach welfare recipients who had fallen into sanction status.

### ***B. New York City's Charitable Choice Demonstration Project***

In New York City, the "Charitable Choice Demonstration Project" was initially planned for only six months but instead lasted from 2000-2003. The project, through HRA, was designed to use community and faith-based organizations, including churches, to establish contact with welfare clients who had lost or were in danger of losing their benefits because they had failed to meet certain work-related requirements. HRA reports that before the project, it had not contracted much with congregation-based providers.

Most individuals who were targeted for this outreach campaign did not have a strong incentive to clear the sanctions against them since the reduction in their assistance was relatively small – under the sanction, the portion of benefits attributable to the adult within a family would be reduced for a specified period, while benefits attributable to children would continue unaffected. As long as they kept in contact with their caseworker, they would continue to receive benefits, albeit at a reduced level.

The neighborhood-level churches involved in the program were placed under the leadership of a larger intermediary group, organized at the borough level, and providing project administration and liaison services between the churches and City government officials. Under the terms of their contracts, the members of each group worked to locate the sanctioned individuals and assist them in clearing their sanction status by engaging in work-related activities. The FBOs expressed an interest in working with the clients after their sanctions were lifted. Subsequent efforts by the City sought to expand on the provision of employment training and job placement services.

A study by the Rockefeller Institute of Government in 2002 found that the FBOs involved in the project were generally successful in getting clients started in the process of clearing their sanction status. It was harder than expected for groups to reach clients since they move often and had less of a connection than expected to local groups like churches, but the faith-groups were more successful than expected in working with those they did reach. The missions and objectives of the FBOs and the city agency often clashed – the FBOs expected to influence the shape of what they were doing with the City, and not simply perform as contractors for hire.<sup>7</sup> A director in the city's Human Resource Administration

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<sup>7</sup> Rock, JoAnn. (2002) *Stepping Out on Faith: New York City's Charitable Choice Demonstration Project*. Albany, NY: Rockefeller Institute of Government.

reported that while the FBOs were skilled at case management activities, they were not so proficient in employment-related activities.

Meeting outcomes for the performance-based contracts, delayed payments for the services, and nonpayment for additional efforts in initially locating clients were difficult issues for the smaller churches involved in the demonstration. None of the contracts with the FBOs were renewed in the spring of 2003. The HRA representative explained that once the set-aside funds for the Charitable Choice project were gone, the FBOs then had to compete with other organizations for the contracts. Most simply did not have the experience and record that other agencies could offer. However, if HRA had the funds and the manpower to monitor the Charitable Choice project, the representative believes the project would have continued.

The Rockefeller report found that these faith-based and community-based organizations did learn from the experience and many of them sought private funds when their public funding was not renewed.

An important effect of Charitable Choice in New York appears to be the heightened awareness FBOs now have about contracting opportunities, grant-writing and technical assistance. Much of this can be attributed to outreach efforts by New York state agencies. However, some of the heightened awareness is also a result of federal efforts to promote the Faith-Based Initiative. Federal agencies such as the Department of Housing and Urban Development have made concerted efforts to reach FBOs through a network of regional liaisons and workshop opportunities.

### ***C. OTDA Takes the Lead in Charitable Choice Compliance***

New York has undertaken some activity designed to facilitate participation of faith-based organizations in the delivery of social services. These activities include the assignment of individuals to serve as faith liaisons within some agencies, outreach to FBOs through conferences, and invitations to join service contract mailing lists.

A number of governors responded to Charitable Choice – or the more recent White House initiative – by ordering statutory reviews of contracting procedures with faith-based organizations and/or establishing faith-based offices or liaisons. New York’s executive branch has remained relatively silent on the issue. There has been no formal systematic review of New York State’s contracting statutes and procedures to assess compliance with federal Charitable Choice. No executive orders have been issued in New York related to the faith-based initiative. There has been little action to push faith-based services through administrative or legislative actions. But while there is no separate state liaison

for faith-based organizations, there are such liaisons in the two agencies responsible for most of the welfare programs.

The majority of what has occurred in New York related to Charitable Choice has taken place at the agency level. The Commissioner of the Office of Temporary and Disability Assistance<sup>8</sup> issued an informational letter to his local district commissioners and all relevant OCFS staff involved in providing TANF services. This letter clarified the federal Charitable Choice provision enacted through federal welfare reform, and this document has been edited and redistributed a few times since its original issuance in 2001.<sup>9</sup>

The letter itself provides detailed guidance for state agency compliance with the federal Charitable Choice regulations. It explains that if FBOs provide a contracted TANF service, they do not have to remove religious items from the place where the service is provided, that they do not have to alter their form of internal governance, that they are allowed to select employees on the basis of religion, and that they must serve all clients without regard to the religion of the client.

The New York State Department of Labor's policies may not be entirely consistent with these provisions, however. Boilerplate DOL contract language contains a standard nondiscrimination clause which states that the contractor "will not discriminate against any employee or applicant for employment because of race, creed, color, sex, national origin, sexual orientation, age, disability, genetic predisposition or carrier status, or marital status."<sup>10</sup> Taking its lead from the federal government, OTDA states that FBOs are exempt from Title VII of the U.S. Civil Rights Act of 1964 on the basis of religion, allowing them to give hiring preference to members of their own faith. When asked about this issue, DOL officials indicated that if the department's nondiscrimination clause was ever challenged, it would be upheld regardless of initiatives in other agencies to allow preferential hiring by FBOs.

The informational letter from the OTDA Commissioner also outlines the rights of clients who receive services from faith-based organizations. Clients are informed by the government (usually the caseworker) that they have the right to refuse any religious component of a program, that they cannot be discriminated against because of their religion, and that they may request an alternative, secular provider.

As part of this effort, TANF clients are given a booklet, "What You Should Know about your Rights and Responsibilities," when they apply for a social service. One section of the booklet informs the client: "If you are assigned to an

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<sup>8</sup> The Commissioner referred to in this paper, Brian Wing, resigned in October 2003.

<sup>9</sup> [www.otda.state.ny.us/directives/2002/INF/02\\_INF-14.pdf](http://www.otda.state.ny.us/directives/2002/INF/02_INF-14.pdf)

<sup>10</sup> Contract in author's possession.

employment or training program provided by a religious organization, you have the right to receive services of similar value from a different provider.”<sup>11</sup>

Protecting a client from religious discrimination is shared by both OTDA and DOL policy. Department of Labor contracts include the following non-sectarian clause:

*“The funds provided to the Contractor are for secular purposes and will be used to provide employment and/or training services as described in the contract to persons regardless of religious affiliation and shall be performed in a manner that does not discriminate on the bases of religious belief, or promote or discourage adherence to religion in general or particular religious beliefs. No funds will be used for the advancement of a particular religion.”*<sup>12</sup>

This is similar to OTDA’s policy:

*“FBOs may not discriminate against individuals with respect to assistance or services on the basis of religion, religious belief or refusal to actively participate in a religious practice.”*<sup>13</sup>

Clients are also protected from unwanted participation in religious activities. OTDA’s informational letter states:

*“Recipients cannot be required to participate in religious activities in order to receive services. The services provided with contract funds or grants may not consist of sectarian worship, instruction or proselytization.”*<sup>14</sup>

Alternative secular services are also guaranteed. This policy states: “If an eligible individual objects to the religious character of the FBO from which he receives or would receive assistance or services, he or she must be provided with services of comparable value from another provider within a reasonable period of time.”<sup>15</sup>

In practice, most state officials interviewed for this study reported that they emphasize no religious content in programs they fund. Their main reason is that it is easier to avoid any controversy if the programs are wholly secular. They also report that where explicit written guidelines are lacking, there is an unwritten policy for caseworkers to obtain alternative providers for the clients. However, officials admit many rural areas of the state have no secular providers, making it

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<sup>11</sup> [www.otda.state.ny.us/directives/2001/INF/01\\_INF-16-attach4148A.pdf](http://www.otda.state.ny.us/directives/2001/INF/01_INF-16-attach4148A.pdf)

<sup>12</sup> Contract in author’s possession.

<sup>13</sup> [www.otda.state.ny.us/directives/2002/INF/02\\_INF-14.pdf](http://www.otda.state.ny.us/directives/2002/INF/02_INF-14.pdf)

<sup>14</sup> *ibid*

<sup>15</sup> *ibid*

difficult to provide an alternative if it ever became an issue. In the urban areas, depending on the program, there are lists of alternative providers to which clients may be referred.

Finally, the OTDA informational letter describes the responsibilities of the government when it contracts with faith-based service providers. The state government must notify the client of their right not to actively take part in inherently religious activities, and their right to request an alternative provider. In practice, these rights are conveyed to the client through their caseworker.

#### ***D. Changes in Level and Type of FBO Involvement***

It can be stated with relative certainty that New York has a long history of contracting with FBOs. There does not appear to have been a significant difference in the level and type of FBO involvement with the State of New York since the passage of Charitable Choice. However, since much of the evidence has been collected from state officials on an interview basis instead of through actual contract amounts, it is difficult to state this with certainty. The results from a review of the contracts presented in Section E shows that there is a large amount of contracting with FBOs, but we do not have a “pre Charitable Choice” period to compare this against.

While the provisions of Charitable Choice affect other programs besides those under TANF – such as federal Substance Abuse Prevention and Treatment Block Grants and Community Service Block Grants – there is little evidence that government officials in New York are aware of the provisions. Contacts in New York’s Office of Alcoholism and Substance Abuse, Office of Mental Health, and the Office of Small Cities (responsible for CSBG) were unaware of the Charitable Choice provisions relevant to their programs. OASAS and OMH report that most of their external providers are providing services that are medical in nature and would therefore need to be provided by highly qualified organizations like hospitals and clinics.

A review of the OMH contracts for 2002 shows that \$48 million went to religiously-affiliated non-profit FBOs (including hospitals and clinics), and to large national faith-affiliated social service providers like Catholic Charities. This is the highest dollar amount involving contracts with faith-based providers of any New York State agency, with the majority going for housing-related services.

Even within those state agencies that are more knowledgeable about the faith-based initiative and Charitable Choice, many officials said they did not consider organizations like Salvation Army, Catholic Charities and Lutheran Social Services to be “faith-based.” For example, officials at the Division of Transitional Support and Policy – responsible for emergency shelter and relief services in New York – initially said that there was not a lot of contracting with

faith-based organizations. However, when told that this research project considers organizations such as Salvation Army and Catholic Charities to be faith-based, the response changed to “probably 90 percent of our contracting is with faith-based organizations.”

This exemplifies the type of faith-based contracting that typically has occurred and continues to occur in New York State. Large faith-affiliated social service agencies that tend to provide services with little or no apparent religious content are the types of FBOs that commonly receive contracts with state and county agencies. For one sample fiscal year, this study found over half of all state contracts to FBO providers were awarded to large faith-affiliated agencies.

To date, there appears to have been no real push by the state to involve smaller, congregation-based FBOs, and its contracting process has not been modified to make it easier for these types of organizations to apply. But some agencies, such as OTDA and OCFS, have begun to specifically list “faith-based organizations” as being eligible applicants in their contract and grant announcements. However, most contract opportunities in New York require the applicant to have legal non-profit status (registered or certified). This has the effect of excluding many congregation-based FBOs from even entering the contracting process.

Further, the state has not reduced red-tape nor simplified its requests for proposals or contract language. As previously described, contract opportunities are also not being scaled down in scope or amount to make them more suitable for participation by smaller FBOs, nor has the State simplified the notification process for contract and grant opportunities to facilitate expanded participation. While, there were a few early initiatives, the State has not offered capacity-building grants, start-up grants, or technical assistance workshops aimed at encouraging new FBO providers.

Still, New York is encouraging FBOs to join service contract mailing lists and has provided outreach conferences. In 2002, OTDA and OCFS sponsored three statewide conferences called “Building Bridges to Independence: Charitable Choice Technical Assistance Conference.” The focus of these was to demonstrate how FBOs can work with their local social service districts to form relationships and become involved as service providers. These events reached over 600 organizations. Currently there are no plans to offer additional conferences, but officials report they will hold more by request.

Much of the work by OTDA and OCFS is facilitated by individuals working as faith liaisons. In the past, both agencies had staffers that served specifically as “faith-based liaisons.” However, due to fiscal pressure and perhaps other considerations, these functions were subsumed into more generic positions. Currently the staffers responsible for outreach to FBOs have additional duties beyond their faith liaison work. In OTDA the contact person for FBOs is the Director of the Office of Equal Opportunity Development, and in OCFS the

liaison is the Coordinator of Community Affairs. Both are knowledgeable on the topic of faith-based initiatives and provide valuable resources. However, the numerous responsibilities of their offices restrict their abilities to encourage FBOs to participate in social service programs.

In addition to these agency-level liaisons, OTDA and OCFS are in the process of establishing networks of county-level liaisons. Since the bulk of social services are provided within the state's social service districts, their staffs are generally more aware of local needs and the local organizations which can provide required services. The intent is not to establish a new position of "faith liaison" within each social service district, but instead to designate a current staff member – in addition to their other job duties – as the contact person for community and faith-based organizations.

### ***E. Review of State Contracting with Faith-Based Organizations***

In an attempt to quantify contracting for FBOs in New York, information was collected on the number and amounts of State contracts in a sample year. Specifically, we were interested in how much faith-based contracting was occurring within the programs that have federal Charitable Choice provisions listed in Table 1 (see page 4).

Because the state government generally does not categorize its contractors as being either "faith-based" or "secular," it is difficult to ascertain the amount and types of contracting that occurs between New York State and FBOs. Interviews with state officials mostly produced only anecdotal information. This made it hard to categorize whether FBOs contractors were congregation-based, religiously affiliated non-profits, national faith-affiliated social service agencies, faith-based intermediaries or faith-based coalitions.

Some agencies in New York have just started to collect this type of information, using a system similar to that employed by federal agencies. This involves the use of an optional question on contract application forms where the applicant can self-identify as being a "sectarian entity." Like the federal government, New York agencies report they will use the information to gauge the degree to which faith-based organizations are being provided the opportunity to apply for state contracts. However, the information is optional and therefore would not be comprehensive, complete, or necessarily representative to use in quantifying the actual number or type of FBOs receiving contracts.

In order to more satisfactorily quantify the number and amount of state contracts with FBOs, this study undertook an examination of the New York Office of the State Comptroller's contract database. All grants/contracts of \$5000 or greater are required to go through the Comptroller, although smaller grant amounts can also be found in its database. Staff at the Rockefeller Institute of Government

determined the faith-character of each contractor on the Comptroller’s system for State fiscal year 2002, by researching information such as self-identification, mission statement, program activities and funding sources. Most of this information was acquired through the organizations’ websites and Internal Revenue Service filings.

In total, ten New York State agencies were found to contract with faith-based providers for human services. But, due to the variations in fiscal year reporting by federal and state programs, and multi-year contracts, the information that follows for 2002 should be viewed as illustrative.

This study found that state contracts to FBOs in New York during 2002 exceeded \$100 million and was distributed through 416 grants and contracts, as seen in Table 2 below.

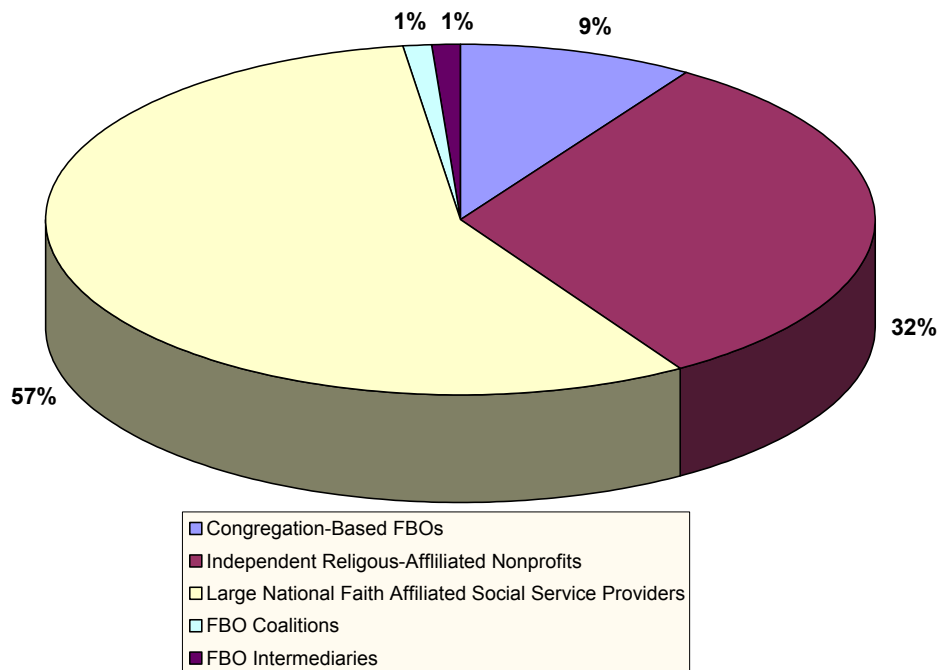
**Table 2: State Level Contracts/Grants by FBO Type and Source**

Number of Contracts/Grants to FBOs	Congregation-Based FBOs	Independent Religious-Affiliated Nonprofits	Large National Faith Affiliated Social Service Providers	FBO Coalitions	FBO Intermediaries	TOTAL
TANF/MOE	22	71	146	2		241
welfare-to-work (state, not federal)		4	10			14
SAMHSA		7	2			9
Emergency Food & Shelter Program					5	5
Emergency Shelter Grant		9	2	1		12
Department of Justice	2	10	12			24
Department of Education		1	5			6
Office of Mental Health		16	20	1		37
Legislature Member Item	14	13	39			66
Shelter Plus Care (HUD)		2				2
<b>TOTAL</b>	<b>38</b>	<b>133</b>	<b>236</b>	<b>4</b>	<b>5</b>	<b>416</b>
<b>Dollar Amount of Contract/Grants to FBOs</b>						
TANF/MOE	\$973,112	\$15,097,510	\$26,140,927	\$248,065		\$42,459,614
welfare-to-work (state, not federal)		\$2,414,856	\$8,327,688			\$10,742,544
SAMHSA		\$83,600	\$151,900			\$235,500
Emergency Food & Shelter Program					\$270,332	\$270,332
Emergency Shelter Grant		\$691,246	\$177,867	\$30,000		\$899,113
Department of Justice	\$200,000	\$524,451	\$717,250			\$1,441,701
Department of Education		\$80,000	\$1,882,415			\$1,962,415
Office of Mental Health		\$14,935,409	\$32,678,229	\$479,042		\$48,092,680
Legislature Member Item	\$112,800	\$210,129	\$1,093,100			\$1,416,029
Shelter Plus Care (HUD)		\$410,892				\$410,892
<b>TOTAL</b>	<b>\$1,285,912</b>	<b>\$34,448,093</b>	<b>\$71,169,376</b>	<b>\$757,107</b>	<b>\$270,332</b>	<b>\$107,930,820</b>

Over half (57 percent) of the state contracts to FBOs went to large multi-state or national faith-affiliated social service providers (Figure 1). The next largest group

of FBO contracts – a total of 133 – was with independent religiously-affiliated non-profits. Third in line were congregation-based FBOs, which received 39 grants and contracts. Many of these were “Member Items” – funds earmarked and appropriated by the State Legislature for specific grants to particular organizations within their districts. Finally, five contracts went to faith-based intermediaries and four went to faith-based coalitions. However, intermediaries and coalitions were difficult to identify, so it is likely this is an under-representation of the actual number of state contracts given to these types of FBO.

**Figure 1: Percentage of State Level Contracts to FBOs by Type of FBO**

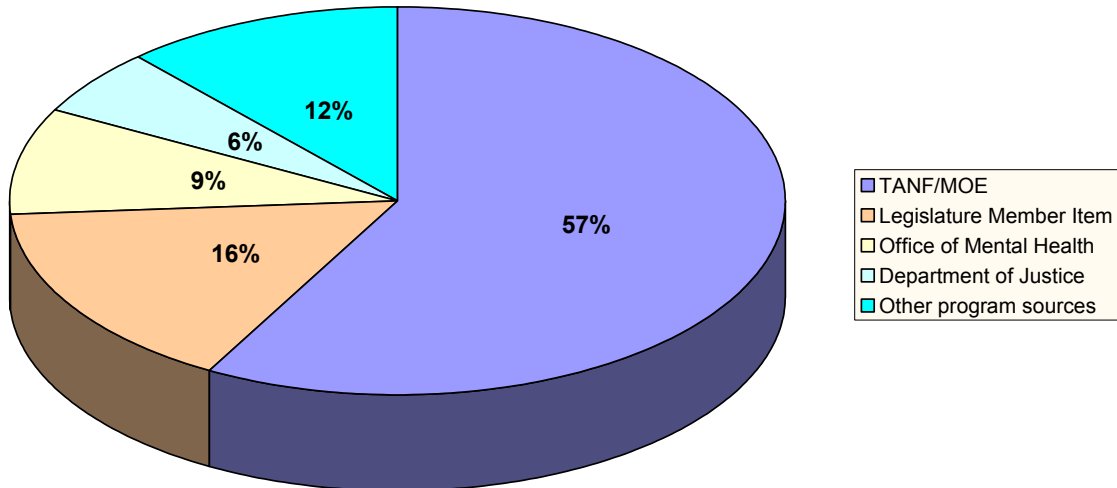


A recent study by researcher Amy Sherman found 32 state contracts with FBOs in New York, totaling about \$9 million.<sup>16</sup> All of these were TANF funds with the exception of one Welfare-to-Work contract. By contrast, this Roundtable study found \$42.5 million in TANF contracts for services like employment training, job placement, youth/children services and substance abuse prevention and treatment. In addition, \$1.4 million in contracts went to FBOs through New York’s Division of Criminal Justice Services for crime prevention and juvenile justice programs, \$1.4 million was provided through Legislative Member Items, and almost \$1 million was distributed in Emergency Shelter Grants.

<sup>16</sup> Sherman, Amy L. (2002) Collaborations Catalogue: A Report on Charitable Choice Implementation in 15 States. Hudson Institute. [www.hudsonfaithincommunities.org](http://www.hudsonfaithincommunities.org)

Figure 2 below shows the percentages of contracts and grants awarded by New York State to faith-based organizations, with more than half – 57 percent – of the contracts awarded to faith-based organizations through the TANF program.

**Figure 2: Percentage of State Level Contracts to FBOs by Program Source**



Clearly, even in the absence of a full-scale faith-based initiative of the sort employed elsewhere, New York is actively contracting with faith-based providers, with services ranging from mentoring, employment training, and housing. While the bulk of state funds go to large faith-based organizations, it appears smaller FBOs are also becoming more involved.

#### IV. A CASE STUDY OF SERVICE PROVISION BY FAITH-BASED ORGANIZATIONS IN ONTARIO COUNTY

To further illustrate service provision by FBOs in New York, a case study was conducted of Ontario County, which is in the western part of the state (Figure 3). Ontario County is regarded by key informants in New York as having a noteworthy, congregation-based, mentoring program for its welfare clients, which was a prime factor in its selection as the county-level subject for this study.

**Figure 3: Map of New York State**



With the help of a TANF-funded initiative to establish a faith community coordinator, Ontario County launched its “Faith in Families” (FIF) program in 2001. Modeled on the “Families First” program in North Carolina, the Ontario County program links welfare clients to mentoring teams from the local Presbyterian Church. Team members commit at least a year of service to help move the welfare client to stable employment. Activities include assistance with job searches, transportation, day care arrangements and moral support.

The Presbyterian Church has been running the Faith in Families program for about three years under a TANF-funded contract. Although the program is small – only taking on about a dozen clients per year – the county’s Commissioner of Social Services is very pleased with the ability of the Faith and Families program to successfully assist welfare clients in undertaking work-related activities and her agency’s relationship with this congregation-based FBO.

In addition to partnerships with congregations, the county also has a history of contracting with large faith-affiliated social service providers. For example, the Director of Services for the local Catholic Charities reports the agency has worked under county TANF contracts to provide a number of services during the past several years. These include family advocacy in “child-only” TANF cases, bus passes for working clients, and a welfare-to-work mentoring program.

Ontario County is known as an area with strong Christian traditions. The county has a long history of working with FBOs, including churches. Its involvement with FBOs as social service providers has not been very controversial. County government officials, like many state officials, view faith-based providers as a welcome asset which can be advantageous in helping to provide social services to the needy. No one reported evidence of FBOs being “discriminated against” in grant programs. To the contrary: the practice has been that if there is grant money or contract opportunities available, efforts are made to inform faith-based organizations of these opportunities, especially those with established histories of service.

Information on issues connected to Charitable Choice does appear to make it down from state agencies to local levels. Some of the policies and procedures previously described at the state level are replicated in Ontario County, although there are often no corresponding guidelines in place at the local level. FBOs acting as service contractors in Ontario County are allowed to keep religious symbols in the place of social service delivery, they are allowed to hire based on religion, and they must serve all clients regardless of religion. Clients are allowed to refuse religious aspects of programs, and, if they express a desire for a different provider, their caseworker must find them an alternative.

However, due to the rural nature of Ontario County and its limited number of potential providers, a faith-based organization may sometimes be the only option for a particular social service. When asked if there were secular alternatives for every service offered by faith-based providers, county officials conceded that there were not. But county officials also said alternatives would be found should a client ever object to a religious provider. As with many other aspects of providing services to individuals, county officials said they address client needs on a case-by-case basis.

County officials noted that no client had ever objecting to receiving service from a faith-based provider. Two reasons for this were reported. First, Ontario County is described as a community with deep religious roots, so clients themselves often feel more comfortable with a faith-based provider. Second, clients are allowed to choose their provider, and are made aware if their provider is religiously-affiliated before entering a program.

When clients enter the Faith in Families program, it is through a referral by their caseworker. The caseworker explains that the program is voluntary and that there

is a secular alternative program. If the client chooses the FIF program, the Director of FIF explains to the client upon entry that any religious activities offered are voluntary and are separate from the mentoring program. The volunteer mentors are also instructed that they should not make the client (or the client's family) feel they must participate in religious activities in order to receive the program's services.

Asked to identify what, if anything, had changed in the welfare system as a result of Charitable Choice, county officials reported the main difference is an increase in the government's interest in making sure that FBOs are not excluded from participation. County officials continue to utilize whatever providers are made available to them, and are receptive to any policy that would increase the number of eligible service providers.

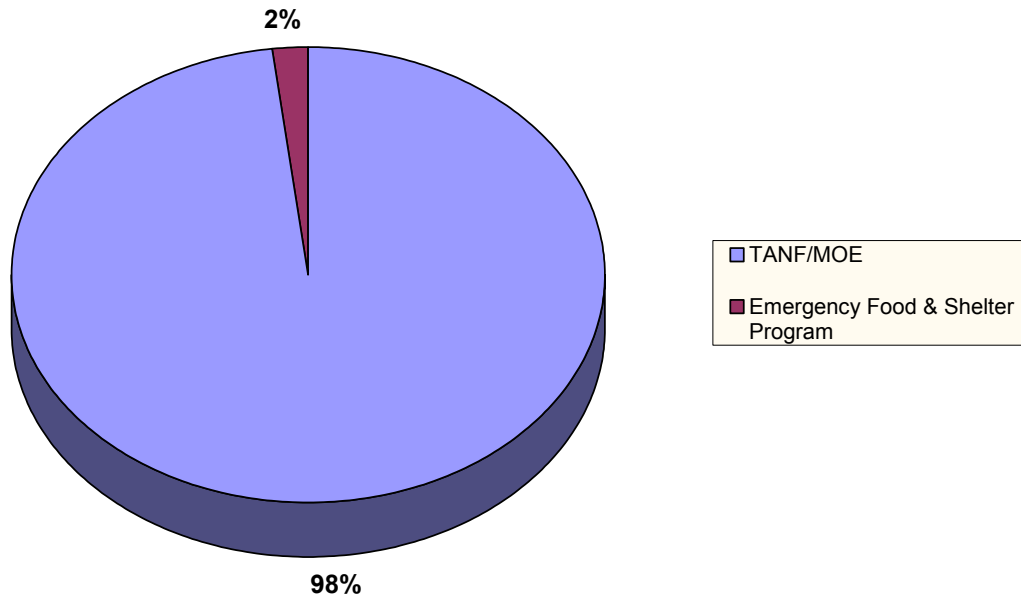
Even in the small, rural counties of New York, faith-based organizations are often active in the contracting environment. For instance, as shown in Table 3, Ontario County had ten contracts with FBOs during the past year.

**Table 3: Ontario County Contracts/Grants by FBO Type and Source in 2002**

	Congregation-Based FBOs	Independent Religious-Affiliated Nonprofits	Large National Faith Affiliated Social Service Providers	FBO Coalitions	FBO Intermediaries	TOTAL
<b>Number of Contracts/Grants to FBOs</b>						
TANF/MOE	1		3			4
Emergency Food & Shelter Program	2	1	3			6
<b>TOTAL</b>	<b>3</b>	<b>1</b>	<b>6</b>	<b>0</b>	<b>0</b>	<b>10</b>
<b>Dollar Amount of Contract/Grants to FBOs</b>						
TANF/MOE	\$50,000		\$240,000			\$290,000
Emergency Food & Shelter Program	\$1,300	\$1,000	\$3,400			\$5,700
<b>TOTAL</b>	<b>\$51,300</b>	<b>\$1,000</b>	<b>\$243,400</b>	<b>\$0</b>	<b>\$0</b>	<b>\$295,700</b>

Four of these contracts were for TANF-funded youth/children services, transportation assistance, family formation, and mentoring (FIF). TANF funds are also the largest source of county dollars for faith-based providers (Figure 4).

**Figure 4: Percentage of Ontario County Contract Dollars to FBOs by Program Source**



In the past year, FBOs in Ontario County received no identifiable funds from CSBG, CDBG, SSBG, ESG, WIA or SAMHSA. Apart from TANF, the only other contracts to FBOs in the county were Emergency Food and Shelter Program grants. These went to a variety of faith-based organizations from Catholic Charities, Salvation Army and St. Vincent de Paul Society, to the First Baptist Church and St. Peter’s Church.

While the county has not taken any significant steps to modify the contracting process to facilitate FBO involvement, it does provide technical assistance if an organization requests it. For example, the FIF program received a start-up grant from the county Department of Social Services to assist in its initial design, and they continue to receive support in completing the required paperwork for the contract.

Ontario County officials at the department level have also begun active outreach to FBOs to provide services, whether contracted or not. The Department of Social Services is among those which have made extensive efforts at outreach,

along with the county's Alternatives to Incarceration program, which seeks to increase faith-based participation in its program activities and goals. Meanwhile, the Community Action Agency – which receives the Community Services Block Grant for Ontario County – emphasizes that while it does not have funds to directly support FBOs, it works with faith organizations to meet the needs of county residents, especially those most vulnerable to falling between the gaps in the system.

County officials report they value input from a variety of groups serving the community. Representatives from faith-based organizations are on numerous County committees and advisory boards. The County also recognizes the quick response and resources available from FBOs. As such, faith-based organizations are among the first organizations notified when emergency services are needed.

The Charitable Choice provision of welfare reform was implemented early in Ontario County, mainly due to the establishment of the TANF-funded Faith in Families demonstration project. However, the area was already receptive to the idea of faith-based social services, and had already established a history of contracting with such organizations.

The main difference in the past few years has been a focus on expanding the utilization of faith-based providers. With a county DSS office interested in tapping all available resources for service provision, and with continued state-level financial and policy support, the faith-based initiative will face few challenges in Ontario County.

## **V. CHALLENGES FOR THE FAITH-BASED INITIATIVE IN NEW YORK STATE**

The challenges for implementing the faith-based initiative in the State of New York are mainly bureaucratic. The political environment toward increasing the participation of FBO service providers appears to be relatively neutral. There has been no real hindrance – though there has been no high-profile push for faith-based services, either. Recent attention has turned to how to increase faith-based involvement in marriage initiatives and in crime prevention. It is yet to be seen whether, and how effectively, such initiatives may be implemented at local levels across New York. The state's numerous levels of bureaucracy may be the largest impediment to any policy and regulatory changes.

Still, many social service district officials seem to be well informed of state agency policy issues affecting faith-based social service. But the reality is that even though these officials may be aware of the provision of Charitable Choice, there are often only a limited number of organizations that can offer any particular service which is needed at the local level.

New York's urban areas usually offer a wider selection of professional social service providers, many of which are expert in the contracting environment. They are often able to meet the requirements of performance-based contracts, and are accustomed to payment delays by the government. This makes it difficult for novice faith-based providers to enter the contracting arena, especially without the government taking steps to simplify contracts, procedures and outcomes. Absent such reforms, it is likely that the larger, more professional providers will continue to receive a large amount of available contracts for services.

Another challenge facing New York's implementation of Charitable Choice is the issue of monitoring and compliance. If FBOs are under a state or county contract, there are usually outcome or performance measures as part of the contract. However, there are no explicit guidelines for monitoring faith-based providers for permissible and impermissible religious activities. Currently, FBOs are monitored in the same manner as any other social service provider with possible financial audits, site visits and reporting requirements.

New York agencies have started a process of educating staff on explicit compliance with Charitable Choice provisions. Some of this is beginning to reach high-ranking officials at the local levels. In general, the main concern for state and local officials regarding faith-based providers is that there is no mandatory religious content in their publicly-funded services.

All officials contacted for this study agreed that including more faith-based organizations in the state's social service system is desirable because it means the availability of more service providers. However, like many states, New York faces a daunting fiscal climate, with very tight budgets at state and local government levels. It is not an especially welcoming time to give funds to new organizations which do not have established track records. For the foreseeable future, that likely means available funding for public service contracts will be hard fought, and will favor experienced providers.

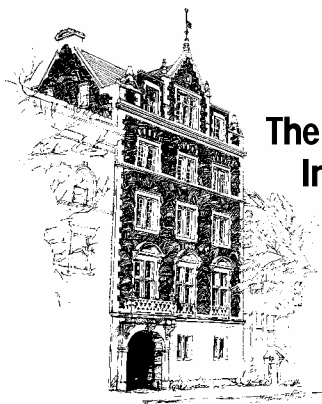
**About the Author**

Lisa M. Montiel is a Research Scientist for the Roundtable and the Rockefeller Institute of Government's Urban and Metropolitan Studies Program. She is responsible for database management, statistical analysis, and research support including a program designed to create a new conventional wisdom about the social conditions and economic prospects of predominately minority neighborhoods in large metropolitan areas across the United States. Prior to joining the Institute, Ms. Montiel held teaching and research positions at SUNY Albany in the Department of Anthropology. She received an M.A. in Anthropology from Northern Illinois University and is a Ph.D. candidate at SUNY Albany.





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[www.religionandsocialpolicy.org](http://www.religionandsocialpolicy.org)  
(518) 443-5014



**The Nelson A. Rockefeller  
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State University of New York  
411 State Street  
Albany, NY 12203

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