

President Obama's Executive Order: Few Significant Changes to Faith-Based Partnerships with Government

Since President Obama took office in 2009, many faith-based organizations that have partnered with the government through federally funded programs have been on alert for any policy changes to the government's handling of grants to faith-based service providers. The President's Advisory Council on Faith-Based and Neighborhood Partnerships was put together early in the Obama administration to identify ways the White House Office of Faith-Based and Neighborhood Partnerships could address church-state challenges and increase cooperation with participating organizations going forward. In March 2010, the Council submitted sixty recommendations to the President.

Last week, President Obama signed an [Executive Order](#) implementing a number of the Council's recommendations. To the relief of many faith-based organizations, the Executive Order contained few changes from a previous Executive Order signed by President Bush in 2002 (EO13279) and primarily provided some clarifications.

Among its provisions, the new Executive Order requires that an individual seeking services from federally funded programs of religious organizations be referred to alternative service providers if the individual objects to the religious character of an organization. This provision protects the religious freedom of individuals and is consistent with "charitable choice" language that has been adopted with various federal laws.

The Order also affirms that a religious organization receiving federal grants or contracts for charitable services may continue to offer separately funded religious activities, although participation in religious activities may not be a prerequisite for receiving the charitable services the federal funds support. Such religious activities should be conducted outside programs supported with government financial assistance. The Order also confirms that federally funded activities may be carried out in spaces where religious symbols are placed. Additionally, the Order creates a federal interagency group tasked with providing a report to the President with recommendations on how to ensure that federal agency regulations are consistent with the fundamental principles the Order lays out.

Also noteworthy are the items the Executive Order does not address. Some Council members had pursued a policy that federal funding should not be provided if a faith-based service provider has not received IRS recognition as an IRC §501(c)(3) tax exempt entity. This would have significantly harmed churches and church-affiliated organizations that under the Tax Code are not required to apply for and obtain IRS recognition in order to qualify for §501(c)(3) status. The Order, however, includes no such requirement that churches receive recognition of §501(c)(3) status in order to carry out federally funded activity.

Nor did the Order address what many consider the most contentious issue surrounding government funding of faith-based organizations—whether such organizations may continue to use religious criteria in hiring employees that implement the government-funded program.

In brief, President Obama's Executive Order was short on change, but set out some clarifying principles to guide the partnership between the White House, government agencies, and faith-based and neighborhood charitable organizations.

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