



DEPARTMENT OF HEALTH AND HUMAN SERVICES

ISSUE: EXPENDITURE OF FEDERAL FUNDS THROUGH RELIGIOUSLY-OPERATED SOCIAL SERVICES (FAITH-BASED INITIATIVES)

POLICY DESCRIPTION: POLICY DESCRIPTION: Federal funds should not be permitted to be used to discriminate against any person based on sexual orientation or gender identity, and federal policy should make this clear. The White House Office of Faith-Based and Community Initiatives (FBCI) was developed to channel federal monies to religious entities and has been messaged as furthering a policy of equal treatment of and/or non-discrimination against religiously-based organizations that provide vital social services. Through these efforts, the current Administration has channeled millions of taxpayer dollars to religiously-based organizations without essential safeguards to ensure that these monies are not used to discriminate against individuals based on actual or perceived sexual orientation and gender identity in employment or in the provision of services. Specific policies of non-discrimination on these bases should be adopted by the next Administration.

Current law: On January 29, 2001, President George W. Bush created the White House Office of Faith-Based and Community Initiatives (FBCI) through Executive Order 13199. That same day, through Executive Order 13198, he created “Centers” for FCBI in five cabinet departments: HHS, HUD, ED, DOL, and DOJ. On December 12, 2002, he issued Executive Order 13279 which, in the Administration’s language, “requires equal protection for faith-based and community organizations.” That same day he issued Executive Order 13280 creating FCBI centers at the USDA and USAID. On 1, 2004, he issued Executive Order 13342 creating FCBI Centers at the Department of Commerce, the VA, and the Small Business Administration. The White House FBCI also has issued written and web-based guidance for religious organizations to seek federal funding, including “Guidance to Faith-Based and Community Organizations on Partnering with the Federal Government” and “Federal Funds for Organizations That Help Those In Need” as well as at its website at <http://www.whitehouse.gov/government/fbc/>.

At the Bush Administration’s direction, several agencies promulgated regulations to allow religiously-based organizations to receive federal funding to provide services (See Final rules at 22 CFR Parts 202, 205, 211, and 226 (USAID); 24 CFR Parts 5, 570, 954 and 1003 (HUD); 41 CFR Part 60-1, 29 CFR Part 37, 20 CFR Part 667 and 670 (DOL); 45 CFR Parts 74, 87, 92, 96, 260 and 1050, 42 CFR Parts 54 and 54a (HHS); 38 CFR Part 61 (VA); and 34 CFR Parts



74-99 (ED), among others.) All of these were adopted without a policy of non-discrimination based on sexual orientation and gender identity, despite the fact that this critical omission was highlighted during the formal comment process on several agencies' sets of proposed regulations.

RECOMMENDATIONS AND PROCESSES FOR MAKING CHANGES: Issue an executive order clearly stating that federal funds may not be used to discriminate against individuals on the basis of sexual orientation or gender identity.

Promulgation of regulations by all affected federal agencies, including those where Centers for Faith-Based and Community Initiatives were created by the Bush Administration or where regulations were promulgated or formal or information policies were adopted to further the goals of the FBCI. The regulations should state that federal funds may not be used to discriminate in employment or in the provision of services on the bases of sexual orientation or gender identity.