

The Poverty Forum: Strengthening Civil Society

Ease the Process of Forming Community-Serving 501(c)(3) Organizations

Stanley Carlson-Thies and Melissa Rogers

Area: Civil Society

Issue: Making it easier for groups serving low-income people to obtain status as tax-exempt 501(c)(3) organizations

Problem:

Government programs, corporate giving programs, foundations, and individual donors often require recipients to have status as tax-exempt 501(c)(3) organizations in order to obtain funds and sometimes even in-kind support such as a donation of office equipment. When houses of worship apply for government social service aid or even certain forms of private aid, they are sometimes required to form 501(c)(3) organizations that are separate from their houses of worship. Even when they are not required to form these separate organizations, houses of worship often wish to do so as a way of avoiding government or outside oversight of congregational activities and minimizing legal risks for their congregations. However, many groups that serve low-income people find the process of seeking status as 501(c)(3) organizations to be complicated and expensive.

Policy Recommendations:

The first step the federal government should take toward making it easier for groups serving low-income people to obtain status as tax-exempt 501(c)(3) organizations is to hold hearings to gather information about the specific assistance community-serving groups need in this process. The Obama administration could hold such hearings under the auspices of its Council for Faith-Based and Neighborhood Initiatives or it could work with the appropriate Congressional committees to hold hearings. Those invited to testify should include representatives of groups serving low-income people (both faith-based and secular groups), representatives of the Internal Revenue Service, and tax experts.

In these forums, policymakers should consider whether the creation of an “EZ application form” to achieve status as a 501(c)(3) tax-exempt entity would be a significant improvement in the process, and, if so, how that form should be structured. There should also be a discussion of a rule that would require the IRS to waive filing fees for applications from smaller groups dedicated to serving low-income people. Additionally, policymakers should consider proposals that would require the IRS to expedite consideration of applications from community-serving groups for 501(c)(3) status.

We believe any adjustments made to the process of seeking 501(c)(3) status should apply to all organizations that wish to serve those in need, not simply those seeking government funds. As noted above, corporate giving programs, foundations, and individual donors often require recipients to have IRS 501(c)(3) status in order to obtain funds and sometimes even in-kind support, and houses of worship often wish to form separate 501(c)(3) organizations when they seek to serve those outside their congregations, whether they will use government funds or private funds in doing so. It is to the federal government's advantage when the number of qualified applicants for partnerships is expanded. It is also to the government's advantage—and to the advantage of society and the needy—when there are more qualified applicants for private funding.

Once the hearings are completed, determinations should be made about: 1) a specific set of actions that will best meet the goal of assisting community-serving bodies to achieve 501(c)(3) status; 2) which branches or bodies of government need to act in order to accomplish each piece of that agenda; and 3) an appropriate mechanism to hold the respective governmental bodies accountable for achieving agreed-upon goals in a timely and effective way.

While these issues are being considered, President Obama should use the bully pulpit to call upon lawyers' associations—including national, state, and local secular and religious groups (e.g., the American Bar Association, American Constitution Society, and Federalist Society as well as the Christian Legal Society) —to urge their members to include in their pro bono work assistance to community-serving groups seeking to obtain 501(c)(3) status. President Obama, as well as governors and mayors, should ask these kinds of associations to set ambitious goals for serving community social service providers and commend the associations that meet their goals.

Further, President Obama's Council on Faith-Based and Neighborhood Partnerships and similar bodies at the state and local level should also serve as a networking platform for congregations and others within the same geographical areas that are interested in the possibility of joining together to form new 501(c)(3) organizations to serve those in need. Whether those partnerships would involve congregations from the same tradition, congregations coming together on an interfaith basis, or joint efforts between religious and secular communities, the next administration should help potential partners find one another.

Previous legislation:

As approved by the Senate Finance Committee, the bipartisan Charity Aid, Recovery, and Empowerment (“CARE”) Act of 2002 provided that the IRS should expedite applications for exempt status made by any social service organization that sought government funds and was required to obtain 501(c)(3) status in order to obtain such funds. Another provision called for the waiver of any 501(c)(3) application fee for an organization that provides social services, seeks government funds and has, or expected to have, an average of annual gross receipts of not more than \$50,000 during the four previous years. The Senate Finance Committee approved the CARE Act in June 2002.

Efforts of Senate leaders and the Bush White House to negotiate an agreement to bring the bill to the Senate floor near the end of session failed, and thus the full Senate never considered the legislation.

Political Outlook:

The CARE Act enjoyed widespread bipartisan support, and we would expect that coalition to reassemble around these goals. Also, President-elect Obama’s support for social service partnerships between the government and religious as well as secular organizations should make the incoming administration amenable to these ideas.

It is worth noting that, in January 2002, the Working Group on Human Needs and Faith-Based and Community Initiatives endorsed the idea of creating an “EZ application” for 501(c)(3) status and waiving fees for such applications made by groups serving low-income people. The Working Group was comprised of religious and secular leaders from across the political spectrum, including John Castellani of Teen Challenge, Floyd Flake of Allen AME Church, Barry Lynn of Americans United for Separation of Church and State, David Saperstein of the Religious Action Center for Reform Judaism, Ron Sider of Evangelicals for Social Action, and Robert Woodson, Sr. of National Center for Neighborhood Enterprise.

References:

Tax Guide for Churches and Religious Organizations: Benefits and Responsibilities Under Tax Law, at <http://www.irs.gov/pub/irs-pdf/p1828.pdf>

Finding Common Ground: 29 Recommendations of the Working Group on Human Needs and Faith-Based and Community Initiatives (Search for Common Ground, January 2002) at 22-23, available at <http://www.sfcg.org/Programmes/us/report.pdf>.

Section 304 of the CARE Act of 2003 (S.476)