

The Role of Contract Managers in the Implementation of Charitable Choice in Maryland

Marilyn Marie Aklin

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by

Marilyn Marie Aklin

Lenneal Henderson, Ph.D.
Director

Laura A. Wilson-Gentry, D.P.A.

Michial A. Gill, Ph.D.

School of Public Affairs
University of Baltimore
Baltimore, Maryland
December, 2009

DEDICATION

Regina Pringle Ford, for her example of praying every morning and her triumph spirit.

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ABSTRACT

The Role of Contract Managers in the Implementation of Charitable Choice in Maryland

Marilyn Marie Aklin

Using case study methodology, this research study addressed the two questions: what are the roles of public sector contract managers in the implementation of the Charitable Choice provision in Maryland and how was the Charitable Choice provision implemented in Maryland? In the past ten years, a growing number of scholars, think tanks and government officials have conducted research to determine the nature and extent of implementation success and the current impact of the Charitable Choice Policy as a policy and administrative initiative in Maryland. The research has run the gamut from detailed, multi-state studies to surveys of religious organizations on the local level to efforts to catalogue the human services they provide. Many studies have concentrated on individual states. However, noticeably missing are studies focusing on the roles of contract managers in the implementation of the Charitable Choice provision, particularly in the State of Maryland. This research study addressed this void by examining how the provision was implemented and the role of contract managers in its implementation. The study sought to determine if contract managers served as a kind of interpreter, enforcer, or circuit stimulus in the direct implementation of the Charitable Choice provision in Maryland. This research study covered the ten year period, 1996 to 2006, of two different gubernatorial administrations representing the two major political parties.

The study did not discover evidence that supports the assertion that contract managers served as a kind of interpreter, enforcer, or circuit stimulus in the direct implementation of the Charitable Choice provision in Maryland. Although, this research study examined the actions of Baltimore City Department of Social Services (BCDSS) contract managers, who managed contracts with three faith-based organizations to provide welfare-to-work services, it has been discovered that these contracts were not the result of an intentional effort to implement Charitable Choice. However, it can be concluded there is evidence that the BCDSS contract managers did act as interpreter, enforcer, and problem solver in implementing its welfare-to-work contracts in general.

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ABBREVIATIONS

AA – Alcoholics Anonymous

AFDC – Aid to Families with Dependent Children

BCDSS – Baltimore City Department of Social Services

BCOS – Buffalo Charity Organization Society

C-DAP – Community Directed Assistance Program

COFI – Communities of Faith Initiatives

COMAR – Code of Maryland Regulations

CSBG – Community Services Block Grant

DALP – Disability Assistance and Loan Program

DHR – Maryland Department of Human Resources

DRA – Deficit Reduction Act

FBO – Faith-Based Organization

FPI – Faith Partnership Initiative

GAO – U. S. Government Accountability Office

GPA – General Public Assistance

IFB - Invitation for Bid

PPI – Primary Prevention Initiative

RFP – Request for Proposals

PRWORA – Personal Responsibility and Work Opportunity Reconciliation Act

SAMSHA – Substance Abuse and Mental Health Services Administration

TANF – Temporary Assistance to Need Families

TCA – Temporary Cash Assistance

USOE – U. S. Office of Education

WIA – Welfare Innovation Act

WOMIS – Work Opportunities Management Information System

WtW – Welfare-to-Work

CHAPTER I – Introduction

Research Questions

This case study addresses two interrelated research questions: 1) what are the roles of public sector contract managers in the implementation of the Charitable Choice provision in Maryland; 2) and, given the contract manager role, how is the Charitable Choice provision implemented in Maryland? In the past ten years, a growing number of scholars, think tanks, and government officials have conducted research to determine the nature and extent of implementation success impact of Charitable Choice from detailed, multi-state studies to surveys of religious organizations on the local level to efforts to catalogue the human services provided by policies like Charitable Choice. Many studies have concentrated on the experience of Charitable Choice in individual states. However, noticeably missing from the literature are studies focusing on the roles of contract managers in the implementation of the Charitable Choice. Consequently, this study focuses on the role and experience of contract managers with the State of Maryland as a case study.

Specifically, this study seeks to address this void by examining how the Charitable Choice provision was implemented in Maryland and the roles of contract managers in its implementation during the ten year period, 1996 to 2006. Two politically distinct gubernatorial administrations covered this period, one led by a Democrat, the other by a Republican.

The focus on the role of the contract manager is conceived as part of a larger analysis of the policy implementation process. Contract managers ensure that contractors and contracting government agencies comply with the U. S. Constitution, state

constitutions, Congressional statutory intent, and pertinent federal, state, and local government regulations. Contract managers are a kind of administrative intermediary between the contracting government agency and contractor entities. Consequently, a critical examination of the contracting manager's role provides insight into how the Charitable Choice policy is implemented and how policy implementation dynamics occur. Specifically, we seek to know how the contract manager acts as a kind of interpreter, enforcer, and problem solver in policy implementation. As a result, the implementation success of Charitable Choice is not simply a matter of 1) whether the policy makes sense and 2) whether the state and local implementers are effective; but whether the administrative delivery system, inclusive of the contract manager, facilitates policy implementation, and thus the achievement of Charitable Choice policy goals and objectives.

Background and Context of the Research Questions

Charitable Choice allows states to contract with religious organizations and religious organizations to accept certificates, vouchers, or other forms of disbursement under specific federally funded programs, on the same basis as any other nongovernmental provider without adjusting their religious character. The Charitable Choice provision was first included in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 which came to be known as Welfare Reform and represented a major policy accomplishment of the U. S. President William J. Clinton's administration.¹ Subsequently, U. S. President George W. Bush's administration sought to expand the initiative through the passage of additional legislation. Upon being

¹ The Charitable Choice provision was first included in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, H. R. 3734, Public Law 104-193, Title I: Block Grants for Temporary Assistance for Needy Families § 104 (August 22, 1996); 110 Stat. 2161; 42 U.S.C. § 604a.

unsuccessful, President Bush issued several executive orders, including Executive Order 13279, which covered most federally funded public aid and social service programs and ordered relevant agencies, to the extent allowable by law, to bring their policies into conformity with basic Charitable Choice provisions. During 2004, the U. S. Departments of Agriculture, Education, Health and Human Services, Housing and Urban Development, Justice, Labor, Veterans Affairs issued final regulations to incorporate Charitable Choice principles into their respective social service programs (Richardson, 2005, pp. 1-2).

Under Charitable Choice, religious organizations are allowed to display religious symbols and to discriminate on religious grounds in their employment practices. However, religious organizations cannot use government funds for worship, religious instruction or proselytizing, are prohibited from discriminating against beneficiaries in delivery of services, and are subject to the same financial audit regulations for federal funds as other non-governmental organizations. Charitable Choice does not prescribe how state and local governments should implement the provision; however it does require that if a beneficiary objects to the religious nature of a provider, the government agency must make available an alternative non-religious, accessible provider (U. S. General Accounting Office, 2002b, pp. 9-10).

Charitable Choice represents a significant shift in the interpretation of the establishment of religion clause of the First Amendment. In the past, the establishment of religion clause of the U. S. Constitution has been interpreted to require publicly funded religious social services providers to be: 1) incorporated separately from their sponsoring religious institution; 2) not engaged in religious activities or proselytizing in programs

funded by government; and 3) to remove religious icons from the premises where publicly funded services are being provided. In essence, Charitable Choice allows sectarian organizations to compete on the same basis as any other nongovernmental service provider, without impairing their religious character (Ackerman, 2000, Summary).

Criticism of Charitable Choice

Charitable Choice proponents such as Carlson-Thies (2000a, p. 1) argue that through Charitable Choice, government programs would be enhanced by working with religious organizations, because religious organizations are trusted institutions that support those in need and have a personal and long-term concern about their success. However, Charitable Choice is not without criticism. Generally, Charitable Choice critics object to the provision because they believe that: 1) the provision violates the establishment of religion clause of the U. S. Constitution and/or 2) religious organizations will discriminate in their hiring practices. In addition, some scholars question how can public agencies and officials hold religious organizations accountable for operational inadequacies or injustices against service recipients without involving or inserting government into the operations of religious organizations (American Civil Liberties Union, 2001; American United for the Separation of Church and State, 2001; Gaylor, 2002; Guerricagoitia, 2001).

Religious Organizations as Service Providers

Despite the objections of Charitable Choice critics, there is evidence that a significant number of African-Americans, 86 percent, and 60 percent of whites, believe religion can help ‘answer all or most of today’s problems’ (DiIulio, 2001). The public’s

favorable opinion of religion coincides with the reality that religious organizations have long played a role in addressing the nation's problems. Scholars note that government units have provided services through religious organizations since the Colonial Period. Such organizations include the Friends Almshouse established in 1713 in Philadelphia to serve poor Quakers (Axinn, 2001, p. 16) and the Free African Society, the forerunner of the African Methodist Episcopal Church, established in 1787 in Philadelphia by Blacks. During the early 1790s, Free African Society members were asked by the mayor of Philadelphia to help fight the yellow fever epidemic that ravaged the City (Klots, 1991, p. 38). In the late 1800s, New York City provided public funding to religious organizations such as the Society of St. Vincent de Paul and the United Hebrew Charities to support their programs serving the poor (Boris & Steuerle, 1999, p. 222).

Religious groups were virtually the nation's sole provider of social services until the end of the 1800s, when the social work profession began emerging. For example, the Buffalo Charity Organization Society (BCOS) was organized in 1877 by Reverend Samuel H. Gurteen. The BCOS was modeled on similar groups based in London and Glasgow, which embodied the philosophy that the needs of the poor should be met by both religious congregations and the wealthy. Under the influence of these charity organization societies, social services delivery systems transitioned from a community-religious base to a city-wide, temporal, and professional orientation. The transition culminated in 1935 with the enactment of the Social Security Act (Cnaan & Yancey, 2000, p.153).

The Social Security Act, initiated by President Franklin D. Roosevelt, was the major piece of social welfare legislation resulting from the Depression and the New Deal

(Axinn, 2001, p. 188). The Act established a system of government provision of aid to the aged and the blind, dependent and crippled children, maternal and child welfare, public health and the administration of unemployment compensation. As a result of the large increase in the number of persons eligible to receive government assistance and the desire to systematize the delivery of services, government became more involved in the direct delivery of social services (Axinn, 2001, p. 190).

Background on the Charitable Choice policy

The Challenges Charitable Choice Creates for Public Administration

Although Charitable Choice is intended to assist government agencies by expanding the pool of possible service providers, the policy represents three problems for public administration. The first is the perceived violation of the establishment of religion clause of the First Amendment of the U. S. Constitution, which is better known as the anti-establishment clause. The second is the potential for discrimination against employment applicants. The third is the challenges experienced by public managers in implementing Charitable Choice relating to outreach procedures, contracting procedures, and contract monitoring.

Charitable Choice and the Establishment of Religion Clause of the First

Amendment

The first problem Charitable Choice creates for Public Administration is that many public managers are concerned about its constitutionality. Charitable Choice opponents and legal scholars (American Civil Liberties Union, 2001; American United for the Separation of Church and State, 2001; Gaylor, 2002; Guerricagoitia, 2001; Kennedy & Bielefeld, 2002) have raised concerns about Charitable Choice because they

believe that it violates the First Amendment to the U. S. Constitution, which states, “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances (Cullop, 1984, p. 113).” They argue that giving directly to religious organizations, even if funds are segregated into distinct fund accounts, constitutes government establishing a religion. This concern complicates the work of public administrators who must implement Charitable Choice. Many public managers are working in states that have constitutional provisions that limit transfer of funds from the state to faith-based organizations. According to Lupu and Tuttle (2002, p. 4), ten states have constitutional provisions that have similar language as the First Amendment to the U. S. Constitution (i.e., prohibition of government establishing a religion) and 37 states have constitutional provisions that explicitly forbid states financing of religious organizations or places of worship.

The Potential for Discrimination in Employment and Charitable Choice

A second problem Charitable Choice creates for Public Administration is that it allows religious organizations to discriminate in their hiring of employees because of religion. Title VII of the 1964 Civil Rights Act prohibits employers with 15 or more employees from discriminating in employment based on religion, race, color, sex, or national origin. However, religious entities, with respect to employment of individuals of a particular religion performing work related to the religious nature of the entity, are exempted from Title VII’s prohibition on religious discrimination. Courts have generally held that this exemption does not disappear if religious organizations receive government

funds. Thus, the default rule for religious organizations receiving federal funds is that they retain the right to hire employees who espouse their religious doctrine (Lupu & Tuttle, 2002, pp. 45-46).

This creates a problem for public managers because many of them must implement Charitable Choice in states that have constitutional provisions or agency regulations that prevent discrimination in employment. Subsequently, these provisions and agency regulations are also required to be followed by any contractor engaged by state and local government agencies. Therefore, there is the possibility that contract managers may have to contend with situations involving religious-oriented contractors who are accused of hiring discrimination. Research reveals that 46 states have enacted employment discrimination policies and of these, 43 recognize some form of exemption for faith-based organizations from state law prohibition on religious discrimination. However, of these 43 states, 18 explicitly provide that faith-based organizations which enter into contracts with state agencies do not retain their exemption from state nondiscrimination law (Lupu & Tuttle, 2002, pp. 47-48).

Employment discrimination is the main issue of contention among federal lawmakers when discussions of expanding Charitable Choice are undertaken. Mostly engaged in these discussions have been conservative, religious Republican congressmen and more moderate and liberal congressmen (Ackerman, 2002). There is evidence that such contention will continue (Edwards, Frank, Watt, McCarthy, Scott, Nadler, Woolsey, & Van Hollen, 2009).

The Challenges of Implementing Charitable Choice Experienced by Public Managers

A third problem Charitable Choice represents for Public Administration is the challenges experienced by public managers in implementation, particularly given the aforementioned issues of constitutionality, discrimination, and the consequent politics of administrative controversy. Kennedy & Bielefeld (2002, pp. 4-6) argue that public managers experience challenges in several areas. Three areas include: 1) outreach procedures, 2) contracting procedures, and 3) contract monitoring. Kennedy & Bielefeld argue that the first task of implementing Charitable Choice for public managers is to identify and remove existing barriers to religious organizations participating in the procurement process; and subsequently developing mechanisms for reaching new religious organization partners.

In a three-year evaluation of Charitable Choice in Massachusetts, North Carolina, and Indiana, Kennedy & Bielefeld (2002, p. 6) found a variety of outreach methods and contracting procedures. In Massachusetts, public officials took the position that they had already provided equal access to religious organizations by revamping its procurement system in 1995 to make the state's contracting processes more accessible and transparent to potential bidders. North Carolina approached implementation differently. The State worked through an existing effort, the Communities of Faith Initiative of the North Carolina Rural Economic Development Center. Through an alliance of churches, the Center proposed to deliver services. Subsequent to the enactment of Charitable Choice, the Center held two conferences and contracted with the North Carolina Division of Social Services to initiate a church-based pilot program to assist rural families as they

transitioned from welfare to work. Demonstration awards were made to five faith-based projects.

In Indiana, the state established an initiative called Faith Works. Faith Works was designed to reach out to religious organizations that had not contracted with the State to assist them with capacity building and technical assistance. As a part of its outreach effort, Faith Works conducted six informal meetings throughout the state in February 2000. Houses of worship and nonprofit service providers affiliated with religious organizations were invited to attend. Nearly 1,000 persons attended. During the year, 400 organizations received technical assistance through state-paid consultants or by attending state-sponsored workshops. These workshops provided information on Charitable Choice legislation, state procurement procedures, the contracting process, effective proposal development, Temporary Assistance for Needy Families (TANF) program requirements and fiscal management and accountability (Kennedy & Bielefeld, 2002, p. 6).

Kennedy & Bielefeld (2002, p. 7) argue that whatever approach states choose, they must grapple with developing appropriate criteria by which to select bidders. Developing appropriate criteria has been made complicated because some Charitable Choice supporters have criticized requirements for professional credentials and norms. For example, one supporter argues that if a state is developing a request for proposal for counseling services and it requires that successful bidders employ licensed social workers, then the state is discriminating against religious organizations offering licensed pastoral counseling. On the other hand, public managers must be mindful of what might happen if they relax or discard generally accepted professional standards when the

bidders are religious organizations. Subsequently, secular nonprofits and current state contractors may justifiably object and argue that an unconstitutional preference is being shown to religious organizations; thus, violating the establishment of religion clause of the U. S. Constitution. This creates a dilemma for States, which are accountable for the quality of the services that are provided and have the legal obligation to evaluate each bidder's ability to provide services at an acceptable and appropriate level.

Contract Monitoring/Administration

Charitable Choice creates several contract monitoring challenges. According to Kennedy & Bielefeld (2002, pp. 7-8) experience in Indiana suggests that monitoring first-time religious contractors requires more than what is required for more experienced providers. In addition, elected officials have expressed concerns that, if state agencies, through appropriate audit and accountability measures, find religious organizations not in compliance, charges of bias would be leveled that may resonate politically. Meanwhile, state agencies are responsible for ensuring that government funds only support secular activities and not proselytizing. Funds to support monitoring are limited. Public managers hired to administer welfare service contracts can only be expected to recognize the most egregious First Amendment violations and have limited time to resolve such matters. While contending with contract monitoring issues, public managers must also identify secular alternatives to serve welfare recipients who do not want a faith-based provider. This may not be a challenge in urban areas, but could be a challenge in more rural settings where alternative providers may not be convenient or not available.

Why a focus on contract managers

To reiterate, this study seeks to address the two questions: 1) what are the roles of public sector contract managers in the implementation of the Charitable Choice provision in Maryland and 2) how was the Charitable Choice provision implemented in Maryland?

The focus on the roles of the contract manager is conceived as part of the policy implementation process. Contract managers ensure that contractors and contracting government agencies comply with the U. S. Constitution, state constitutions, Congressional statutory intent, and pertinent federal, state, and local government regulations. Contract managers are a kind of administrative intermediary between the contracting government agency and contractor entities including nonprofit and for-profit organizations. Consequently, a critical examination of their role has the potential for providing insight on how Charitable Choice is implemented. Specifically, this study seeks to understand how the contract manager functions as a kind of interpreter, enforcer, and problem solver in implementation. Consequently, the successful implementation of Charitable Choice is not simply a matter of 1) whether the policy makes sense and 2) whether the state and local implementers are effective; but whether the administrative delivery system, inclusive of the contract manager, facilitates policy implementation.

CHAPTER II - Literature Review

Charitable Choice Literature Review

Introduction

The amount of research on the impact and implementation of Charitable Choice has increased with the passage of time. A significant amount of the research related to Charitable Choice and its impact on religious organizations can be grouped into nine categories: 1) characteristics of religious organizations staffing and leaders; 2) challenges of religious organizations; 3) capacity of religious organizations; 4) social services provided by religious organizations; 5) number of religious organizations receiving government funding; 6) implementation studies of Charitable Choice at various levels of government; and 7) legal issues and challenges related to Charitable Choice.

Characteristics of Religious Organizations and Leaders

Religious organizations tend to have small budgets, small numbers of members, and leaders with different ages and levels of education. Mark Chaves (2009, pp. 22-23) using data from the 2006-07 National Congregations Study, reported the average congregation had a median income of \$90,000 and 184 regularly participating members. In addition, 34.6 percent of congregations have no full-time staff; 13.1 percent have no paid staff; and only 36 percent of congregations have one full-time staff person.

Dudley and Roozen (2001, p. 64) found that among clergy, representing 41 faith communities, 26 percent had education beyond a seminary master's; 35 percent had a seminary master's; 27 percent had a bible college education; and seven percent had no ministerial education. The ages of these clergy ranged from 24 to 87, with an average age of 51.3 years old.

The Challenges of Religious Organizations

Using data from the 1998 National Congregations Study and other studies, Mark Chaves (2002, p. 279) contends that there are four major challenges faced by religious congregations. The first is maintaining a membership base. According to Chaves (2002, pp. 280-281) religious congregations had to contend with declining attendance in the 1960s and congregants moving from denomination to denomination in recent decades.

The second challenge is securing adequate financial resources. Chaves (2002, p. 283) found that although total giving to religious congregations had outpaced inflation in recent decades, congregations use more and more of their income to maintain local operations. Chaves speculated that this is probably due to increased clergy salaries and other expenses such as health insurance and energy. The third is recruiting talented leaders. Chaves (2002, pp. 286-287) argues that there are two major reasons religious organizations have difficulty in recruiting talented leaders: providing adequate compensation and being located in places where many clergy do not prefer not to live.

The fourth challenge faced by religious congregations is finding the balance between member-serving and public-serving functions. According to Chaves (2002, p. 287), the Charitable Choice movement has called for religious congregations to increase their public-serving functions. Chaves (2002, p. 289) implied that this call for religious congregations to increase their public-serving functions may be unrealistic because of how religious congregations spend their time and resources. Chaves asserted that most congregations are focused on producing worship services, religious education classes, and providing pastoral care for their members instead of providing social services.

Chaves used two studies to support his assertions. The first is a national study of clergy in 15 denominations that found that the top five time-consuming activities of clergy were sermon preparation and delivery, church administration, attendance at church meetings, visits with members, education, and teaching. The second is a survey conducted in an urban county that found, that in a 55-hour work-week clergy reported spending only about an hour each week working with civic organizations (Chaves, 2002, p. 289). Other research showed that only six percent of all religious congregations have a staff person devoted part-time to social service projects and the median dollar amount spent by congregations in support of social service programs in 1998 was about \$1,200 (Chaves, 2002, p. 292).

The Capacity of Religious Organizations

The capacity of religious organizations is a significant factor in their securing government funds. Orr, Spoto, Mounts, Cox, Lanausse, and Ricks (2000, p. 62) asserted that the likelihood that congregations will establish social service programs that could realistically compete for welfare-to-work contracts increases in relation to size, financial stability and organizational complexity. Orr et al. (2000) concluded that congregations with memberships of more than 750 are more likely to have staff with expertise to prepare sophisticated welfare-to-work proposals and to manage social service programs.

Research performed by Arthur E. Farnsley (2001, p. 99) highlighted the importance of capacity and successful funding proposals. Farnsley examined the quality of 105 grant applications for funds, 70 from religious organizations, for the Indianapolis sponsored Front Porch Alliance. Of the 70 religious organizations' applications, 48 (69 percent) were categorized as well-written and well-organized and 8 (11 percent) as poor

or very poor in quality. Whereas, of the 35 secular organization applications, 30 (86 percent) were categorized as well-written and well-organized and 0 (0 percent) as poor or very poor in quality. Farnsley pointed out that not all applications from religious organizations were weak. However, the applications of religious organizations were seldom of the highest quality and would be disadvantaged in a totally open competition (Farnsley, 2001, p. 105).

Farnsley (2001, pp. 107-109) reported that the application process concluded with the Front Porch Alliance making a total of 48 grants to the 105 applicants. Twenty out of 35 (59 percent) applications from secular groups were funded. Twenty-eight out of 70 (40 percent) applications from religious organizations were funded. Of the 28 successful religious organization applications, 20 were of the highest quality and 6 were at the next level, acceptably written and organized. The same pattern emerged with applications from the secular organizations. Eighteen out the 20 successful applications were regarded as the highest quality. Farnsley concluded that even in an environment that was religious organization friendly, strong grant mechanics, such as writing and organization, are critical to successful applications.

There is evidence that religious leaders also recognize that they may not be able to provide long-term or professional services such as job training or substance abuse treatment. In 1997, Printz (1998, p. 1) surveyed religious organizations in the greater Washington, DC area to determine the services they provided and their capacity to expand. The majority of the 266 religious congregations that responded to the survey believed that they did not currently have the facilities, staff, or funds to satisfy an increase in demand.

The Social Services Provided by Religious Organizations

Many national and statewide studies have captured and presented the extent to which religious organizations provide social services across the country. Based on findings from the 1998 National Congregations Study, Chaves (1999, p. 838) reported that 57 percent of congregations participated in or supported social service, community development, or neighborhood organizing projects within a 12-month period of being surveyed. Dudley & Roozen (2001, p. 46) found among congregations in 41 faith communities that more than 80 percent provided cash and food assistance; more than 60 percent supported thrift stores; and nearly 40 percent provided tutoring. Saxon-Harrold, Wiener, McCormack, and Weber (2000, p. 7) reported that 92 percent of all religious congregations in 1993 offered human services.

De Vita, Platnick, and Twombly (1999, p.12) discovered from a survey of New Jersey religious organizations that 77 percent provided emergency services such as emergency food and financial assistance, clothing, or temporary shelter. Forty-three percent provided youth programs including mentoring, tutoring or after-school care. Thirty-three percent provided work readiness programs that offered transportation, work preparation, computer skills, vocational/job training or entrepreneurial training.

Knudson (2001, pp. 7-8) reported that results from a state-wide survey of Oklahoma's religious organizations showed that 23 percent sponsored parenting support groups; 72 percent provided marriage counseling; 13 percent provided personal finance classes; 56 percent provided food; 53 percent provided summer youth camps; and nearly 40 percent provided emergency cash assistance.

Cnaan & Boddie (2001, pp. 568-570) reported in a study of 1,376 Philadelphia religious congregations, 88 percent offered at least one social program and on average each congregation provided 2.41 programs. Forty-seven percent of the congregations reported offering a food pantry; 38 percent provided summer day camps; 36 percent provided recreational programs for children; and 34 percent provided clothing closets.

Printz (1998, p. 1) found that 266 Washington, D. C. area religious organizations provided more than 1,000 community services. Seventy-five percent of these responding congregations provided short-term emergency services including food, clothing, and financial assistance. The 266 congregations served more than 250,000 persons in a year.

Bartkowski & Regis (1999, p. 11) found in a study of 30 Mississippi faith communities and their leaders, that 59 percent of the congregations provided rental payment assistance. Sixty-nine percent provided utility payment assistance. Seventy-two percent provided groceries. Fifty-two percent provided clothing and 55 percent provided counseling services.

The Number of Religious Organizations Receiving Government Funding

Numerous studies show that many religious organizations receive government funding. Based on findings from the 1998 National Congregations Study, Chaves (1999, p. 839) reported that three percent of congregations receive government funding. In 2000, the Polis Center at Indiana University-Purdue University Indianapolis (2001, p. 5) performed a statewide survey and found that two percent of Indiana's congregations received government funding. McCarthy & Castelli (1998, p. 50) reported that Catholic Charities USA agencies received 62 percent of their funding from federal, state and local governments. The Evangelical Lutheran Church in America received from government

sources 54 percent of its budget, the Lutheran Church-Missouri Synod 48 percent, the Salvation Army 15.9 percent, and the YMCA 8.1 percent.

Charitable Choice Implementation Studies

On the state level, the impact of Charitable Choice on religious organizations securing government funding can be assessed through the number of contracts provided to religious organizations and outreach efforts to religious organizations since the passage of welfare reform. Sherman, Kiess, Martin, and Barton (2002, pp.1-2), examined contracting between government social welfare entities and religious organizations in 15 states: Arkansas, California, Colorado, Florida, Illinois, Indiana, Massachusetts, Michigan, Mississippi, New York, Ohio, Oklahoma, Texas, Virginia and Wisconsin. Sherman et al. identified 726 contracts totaling \$123,784,621. Funding for the contracts came from Temporary Assistance for Needy Families (TANF), U. S. Department of Labor's Welfare-to-Work funds (WtW), Community Services Block Grant (CSBG), and Substance Abuse and Mental Health Services Administration (SAMHSA) programs.

The 726 contracts funded nearly 40 distinct services including job training, emergency medical care, fatherhood classes, GED classes, summer youth programs, and domestic violence prevention activities. Of the 587 organizations that received contracts 22 percent (130) were churches versus faith-based 501 (c) (3) organizations. Seven of the 15 states had appointed state, regional, or local faith community liaisons—Colorado, Illinois, New York, Ohio, Oklahoma, Texas and Virginia. However, only four states had established formal systems to track government and religious collaborations (Sherman et al., pp. 4-7).

Green & Sherman (2002) followed Sherman et al.'s (2002) work with a survey of the 587 leaders of the religious organizations with government contracts. Green & Sherman (2002, p. 2) identified two significant findings. First, evangelical Protestants were the largest group active in contracting, representing 42 percent of the total. Historically black denominations and mainline Protestants constituted one-sixth of the total, while Catholics and Jews comprised nearly 25 percent of the total. Second, more than 33 percent of all congregations receiving government funds were predominately African-American and nearly 18 percent were predominately Hispanic, Asian, Native American or multi-ethnic. Overall, minority congregations were more active in government contracting than their white counterparts.

Green & Sherman (2002, pp. 2-3) also identified other findings related to the contracting congregations and their contracts amounts. Forty-four percent of the contracting congregations had 250 or less members. Fifty-five percent of the 389 contractors interviewed had contracts under \$50,000; 22 percent had contracts between \$100,000-\$499,999; 13 percent had contract between \$50,000-\$99,999; and 10 percent had contracts more than \$500,000.

Green & Sherman (2002, pp. 3-4) also examined the experience of religious contractors with government. Nearly all of the religious contractors reported that their experience with government was positive and 92 percent indicated that they would pursue government funding in the future. More than 60 percent of survey respondents claimed that they did not experience intrusion by government. More than 50 percent claimed 'very little difficulty' in applying for contracts. However, new participants (10 percent) had more difficulty than former participants. Whereas, only four percent of old

participants responded that they had difficulty. Twenty-nine percent of survey respondents' complaints involved 'burdensome reporting requirements.'

The survey respondents employed a variety of means to comply with Charitable Choice guidelines. Seventy percent of respondents segregated public funds from funds used for sectarian purposes. Sixty percent of respondents provided special training to staff to discuss religious matters. Nearly 60 percent of respondents held religious activities at special times away from government funded services. Survey respondents also used a variety of means to protect clients' rights. Seventy-five percent of respondents reported that they reassured clients, that receipt of services was not contingent upon their participation in religious services. Sixty-eight percent notified clients of their right to choose an alternate provider. Only nine percent of survey respondents reported a client leaving their programs for another program. Only five or fewer clients actually left (Green & Sherman, 2002, pp. 5-6).

Indiana, Massachusetts, and North Carolina

Green & Sherman's (2002) study is complimented by a three-year evaluation of Charitable Choice implementation in Indiana, Massachusetts and North Carolina conducted by Sheila Kennedy and a team of scholars affiliated with Indiana University-Purdue University Indianapolis, begun during September 2000. This three-year evaluation sought to "investigate and analyze state governments' methods of identifying and working with FBOs [faith-based organizations]; assess the comparative efficacy of faith-based and secular providers; review the capacity of FBOs [faith-based organizations] to bid for, and state governments to manage, purchase-of-service

contracts; and address issues of public and constitutional accountability” (Kennedy & Bielefeld, 2002, p. 6).

Initial findings from the evaluation revealed that the three states responded differently in implementing Charitable Choice. According to Laura S. Jensen (2003, pp. 9-11), Massachusetts did not alter its policies and procedures or dedicate special resources to religious initiatives since the passage of Charitable Choice. Jensen implies that this is the result of Massachusetts’ officials interpreting the Charitable Choice policy as only having to guarantee that religious organizations have equal access to compete for government funds and only focusing upon the capacity and not the identity of a provider in implementing its welfare programs. By 1996, Massachusetts had already established a history of contracting with religious organizations to provide social services. Many of the Massachusetts shelters, youth programs and employment and training programs for welfare recipients were already being operated by religious organizations such as Catholic Charities, the Jewish Vocational Service, and the Salvation Army. As of May 2000, the Massachusetts Department of Transitional Assistance had contracts with at least 30 religious organizations.

North Carolina’s response to implementing Charitable Choice was quite unique compared to Massachusetts’ response. According to Edward L. Queen (2003), in North Carolina the implementation of Charitable Choice involved the states’ religious community helping to develop the State’s responses to welfare reform. The Communities of Faith Initiative (COFI) is an example of a response (Queen, 2003, p. 23). COFI, a \$3.5 million contract between the state Division of Social Services and the North Carolina Rural Economic Development Center (Rural Center), awarded Faith

Demonstration Awards that supported program activities at 105 sites in 53 counties during March 1, 1999 until June 30, 2001. Ten organizations received awards ranging from \$50,000 to \$728,734. Collectively, these organizations provided mentoring, clothing, food, emergency assistance services, transportation, adult education, assistance in parenting, case management and follow-up, job training, job readiness, and job search training services. The majority of funding went to large multi-service providers or to projects with existing programs (Queen 2003, pp. 26-31).

Indiana is considered by many Charitable Choice proponents as a model for implementation of the policy (Thelin, 2003, p. 41). In 1999, Indiana requested applications for a contractor to administer a technical assistance program aimed at recruiting and an educating religious organization, subsequently named FaithWorks. The private consulting firm, Crowe, Chizek and Company LLP, was selected from among the three applicants, to receive a two-year \$500,000 contract to implement FaithWorks (p. 45).

FaithWorks' technical assistance and capacity building work was to enhance religious organizations' ability to bid for state funds. FaithWorks conducted technical assistance workshops throughout the state. Workshops explained the promise and limitations of the Charitable Choice policy, state procurement procedures, the contracting process, and proposal development. FaithWorks' staff explained the prohibition of using government funds to support sectarian activities and recommended that religious organizations form separate nonsectarian 501 (c) (3) nonprofits organizations to receive government funds (Thelin, 2003, p. 46).

The technical assistance workshops were followed by a series of sessions designed especially for the organizations that had received contracts. These sessions focused on state program requirements and regulations, contract administration, fiscal management, and accountability. Ongoing technical assistance was made available via a toll-free telephone number and regional FaithWorks consultants (Thelin, 2003, pp. 46-47). By 2000, 400 religious groups had received technical assistance from FaithWorks. Nearly 75 of the 400 applied for funding. Subsequently, nearly 40 contracts were awarded to religious organizations, totaling nearly \$3.5 million. These organizations went through the same procurement process as secular nonprofit organizations. They signed performance-based contracts that required them to perform specific services and achieve specific outcomes for payment. Twenty-eight of the contracts, average amount of \$25,000, were awarded to religious organizations for short-term summer youth programs in two Indiana counties. Ten other groups were contracted to provide job readiness, training, placement, and mentoring programs. Several other contracts were awarded to groups that addressed fatherhood and parenting issues. Three contracts with religious organizations, which were contracted to provide summer youth programs, were terminated in Spring 2001 (Thelin, 2003, pp. 49-50).

The Roundtable on Religion and Social Welfare Policy, of the Nelson A. Rockefeller Institute of Government

Also during 2003, the Roundtable on Religion and Social Welfare Policy of the Nelson A. Rockefeller Institute of Government, assembled a national team of researchers to examine the nature and extent of the Charitable Choice related initiatives occurring in the nation's 50 states. Results from this study show that: 1) there is wide variation

among the states on whether and why they have pursued partnerships with faith-based organizations; 2) in some states faith-based organizations have long been accepted as government partners, while other states have a history of separation between church and state; and 3) severe fiscal problems have prevented many states from launching new faith-based initiatives. Before President George W. Bush began promoting Charitable Choice in 2001, states engaged in limited activities promoting Charitable Choice (Ragan, Montiel, & Wright, 2003, pp. i-ii).

The Roundtable's study discussed several reasons for the lack of activity at the state and local level. First, faith-based organizations have long been considered vital partners in delivering social services. Second, faith-based organizations are eligible to compete for contracts and grants to the same extent as secular service providers. Third, faith-based organizations, are treated no differently than secular service providers in terms of monitoring and auditing (Ragan et al., 2003, p. v). Fourth, state officials regarded the skills and capacity of a service provider, as more important than an entity's religious or secular nature (Ragan et al., 2003, p. 9).

Although there was limited activity overall, there were several states that undertook substantive action to increase the level of faith-based organizations involvement in government-funded services. First, several states created a high-level liaison office to improve communications between the state and faith-based organizations. Second, some states developed mailing lists and websites to inform faith-based organizations of potential contracts. Third, some states conducted training to assist faith-based organizations in competing for grants and contracts. But, only in a few states were these initiatives led by a governor or an agency leader (Ragan et al., 2003, p. v).

Few states modified their statutes, regulations, or contracting processes to increase the number of faith-based service providers. Instead, states spent more effort on outreach and communication toward smaller, congregation-based organizations and local religiously-affiliated nonprofit providers that had not received government funding. Outreach to larger national faith-based service organizations, which have been receiving state contracts for years, was limited. (Ragan et al., 2003, pp. v-vi).

The Roundtable on Religion and Social Welfare Policy followed its 2003 study with another study in 2005. In the 2005 study, the Roundtable discovered that during the two-year period, 27 state legislatures enacted legislation that included references to faith-based organizations as potential participants in social service programs or in legislation intended to increase state partnerships with faith-based organizations. In addition, 63 percent of states' executive branches had designated an individual or an office as a liaison to the faith community. In 2003, it was only 48 percent. In 2003, 36 percent of states had engaged in significant administrative activities to engage faith-based organization as social service providers. In 2005, 53 percent of states had engaged in such activities (Ragan & Wright, 2005, p. i). By 2005, more than 20 percent of states had provided capacity-building or start-up grants. In 2003, it was less than 5 percent. In other ways, the 2005 study also concluded very little else had changed since 2003 (Ragan & Wright, 2005, p. ii).

United States General Accounting Office National Report

In order to assess the implementation of Charitable Choice, the U. S. General Accounting Office (GAO) undertook several information gathering efforts during 2001 to 2002. Through its research, the GAO found that contracts with religious organizations

accounted for 8 percent or \$80 million of the \$1 billion in federal and state TANF funds spent by state governments on contracts with nongovernmental entities in 2001. The proportion of these funds contracted with religious organizations ranged from 0 to 32 percent across states. Researchers found that several factors continue to constrain the ability of small religious organizations to contract with government. Such factors included religious organizations' lack of awareness of funding opportunities, limited administrative and financial capacity, inexperience with government contracting, and beliefs about the separation of church and state. Researchers also found, that in the five states that they visited, state and local officials expressed confusion about the allowable and unallowable actions and activities of religious organizations under Charitable Choice and as a result the states implementation of Charitable Choice varied (U. S. Government Accounting Office, 2002a, pp. 2-4).

Researchers noted that out of the 5,277 state TANF contracts 7 percent went to religious organizations, 27 percent to for-profit entities, and 66 percent to secular organizations. Five states awarded 20 percent or more of their total TANF contracts to religious organizations. They included North Dakota at 33 percent, North Carolina at 25 percent, Delaware at 25 percent, Alabama at 21 percent, and the District of Columbia at 20 percent. Thirteen states did not contract with religious organizations at all. (U. S. Government Accounting Office, 2002a, pp. 9-11).

Legal Challenges

According to Lupu & Tuttle (Lupu & Tuttle, 2003; Lupu & Tuttle, 2004; Lupu & Tuttle, 2005; Lupu & Tuttle, 2006; Lupu & Tuttle, 2007; Lupu & Tuttle, 2008) the implementation of Charitable Choice has not occurred without legal challenges. Three

legal challenges include: 1) *Freedom from Religion Foundation, Inc. v. McCallum* (W. D. Wisconsin, 2002); 2) *American Jewish Congress v. Bost* (S. D. Texas, 2002), and 3) *Lown v. Salvation Army* (U. S. Dist. Ct., S.D.N.Y., 2005).

Freedom from Religion Foundation, Inc. v. McCallum (W. D. Wisconsin, 2002) actually involves two separate programs and two separate court decisions, which present the distinction between the direct and indirect funding of religious organizations by government. In the January 2002 decision, the judge ruled that the direct grant from the Wisconsin Department of Workforce Development to the Faith Works, a religious, long-term residential substance abuse treatment program, violated the establishment clause because the Department entered into a direct financing agreement with the Faith Works to provide long-term treatment for substance abuse to a group of males were referred because of their status as welfare recipients. This was result of several findings. The court found that state funds were used to support counselors who participated in faith-enhanced AA (Alcoholics Anonymous) meetings at which attendance was mandatory. In addition, counselors were always available to facilitate other activities that were religious in nature. The court also decided that the organization commingled its public and private funds and expected that spiritual activities would be integrated into counselors' responsibilities. As a result, the court decided that the government was essentially paying for religious experiences for program participants (Lupu & Tuttle, 2002, pp. 26-27).

The second decision made in July 2002, involved the State Department of Corrections, which provided the option of drug treatment in lieu of jail. Faith Works was the only long-term provider among the options offered. Under the Department of Corrections program, Faith Works only received payment if the offender selected and

participated in the Faith Works program. In this case, the judge ruled that the Department of Corrections did not violate the establishment of religion clause because the offenders had a choice. The plaintiffs in the case appealed the decision to the U. S. Court of Appeals for the Seventh Circuit (Lupu & Tuttle, 2002, pp. 26-27).

According to Lupu & Tuttle (2002, pp. 31-32), *American Jewish Congress v. Bost* (*S. D. Texas*, 2002) is significant because the case raised the issue of the appropriate remedy in cases in which religious organizations spend government funds in ways that violate the Constitution. This case involves the Jobs Partnership, which provided job readiness skills training. The Jobs Partnership curriculum involved using bible studies and teachings. In 1999, the organization received an \$8,000 contract from the Texas Department of Human Services that supported a portion of the salary of the organization's director, who supervised both the secular and the non-secular components of the program. The Jobs Partnership made no effort to segregate religious and secular portions of the program. The American Jewish Congress and the Texas Civil Rights Project brought suit against the Texas Department of Human Services and the Jobs Partnership claiming that they violated the establishment clause and requested that the contract and other similar contracts be halted and that the Jobs Partnership reimburse the \$8,000. The district court dismissed the case as moot because the contract had ended and the Department of Human Services had not planned to renew the contract. The plaintiffs appealed.

In May 2002, the U. S. Court of Appeals for the Fifth Circuit affirmed the district court's decision that stopping the program was not necessary, but it did instruct the district court to consider if reimbursing the \$8,000 was necessary. In July 2002, the

district court ruled that the Jobs Partnership was not required to reimburse the funds. The plaintiffs appealed and eventually withdrew their appeal (Lupu & Tuttle, 2002, pp. 31-32).

According to Lupu & Tuttle (2005, p. 35), *Lown v. Salvation Army (U. S. Dist. Ct., S. D. N. Y., 2005)* represents a victory for the architects of President George W. Bush's Faith-Based and Community Initiative. The ruling judge dismissed the plaintiff's claims that the Salvation Army's selecting employees based upon their religious beliefs and the government's funding of the Salvation Army workforce violated federal, state, or local laws. However, the judge refused to dismiss, two additional categories of claims.

Lown involved a variety of claims by current and former employees of the Salvation Army against the Salvation Army and officials at several New York area government agencies that funded the Salvation Army to provide social services. The plaintiffs, who worked in the Salvation Army's Social Services for Children program, alleged that the Salvation Army's reorganization plan instituted in late 2003, called for an increased in emphasis of the Salvation Army's religious mission throughout its social service and other programs. Prior to the institution of the reorganization plan the Social Services for Children Employee Manual included a policy of nondiscrimination in employment with respect to creed. The new plan withdrew that policy and substituted various assertions of the Salvation Army's religious mission (Lupu & Tuttle, 2005, pp. 35-36).

The manual went on to declare the Salvation Army a church and that it reserved the right to make employment decisions to promote its religious principles, and to require employees to acknowledge the Church's religious status and to agree to do nothing to

undermine its religious mission. The Salvation Army required employees who worked with minors in the Social Services for Children program to fill out a form acknowledging receipt of and willingness to comply with the new manual, and to complete one additional form. The additional form restated the employee's agreement to comply with the Salvation Army's religious principles. In addition, the form authorized representatives of the churches that employees attended, to discuss their opinions of the employees' fitness to work with children (Lupu & Tuttle, 2005, p. 36).

A number of employees refused to complete the forms and administer the forms to other employees. Subsequently, a number of employees resigned, citing a hostile and discriminatory environment. A number of these employees and a few that remained brought the suit (Lupu & Tuttle, 2005, p. 36). In September 2005, the Judge finally issued a ruling. Although, the judge did not dismiss all of the plaintiffs' claims, the judge did dismiss the plaintiffs' claim that the government defendants were violating the Equal Protection Clause of the 14th Amendment because the Salvation Army's religious discrimination in hiring could not be attributed to the government. Because, the contracts between government agencies and the Salvation Army prohibited discrimination, the judge inferred that the government had no intention of advancing religious discrimination in employment. In addition, the judge dismissed the establishment clause claim, which was the claim most feared by the supporters of the Faith-Based and Community Initiatives. The judge's ruling supported religious organizations' exemption from the section of the Civil Rights Act of 1964 that prohibits discrimination in hiring.

Summary

Much research has been undertaken since the passage of Charitable Choice. The research included multi-state studies; surveys to determine the size and the number of religious organizations receiving government funds; and studies on the legal challenges of Charitable Choice. The research has shown that Charitable Choice has been implemented using various methods. Some states have aggressively implemented policies and special initiatives to engage religious organizations, while others have continued their procurement processes without instituting new initiatives. Some initiatives were state executive branch led or state legislative branch led. Overall, there is evidence that Charitable Choice has increased the number of religious organizations securing government funds. Religious organizations have been contracted to provide a variety of services including job training, job placement, and counseling.

Policy Implementation Literature Review

Introduction

Policy implementation as a field of scholarly inquiry has produced three generations of implementation studies (deLeon & deLeon, 2002, pp. 467-468.) First generation implementation studies, such as Pressman and Wildavsky's *Implementation* (1984), Derthick's *New Towns In-Town* (1972), Bardach's *Implementation Games* (1977), and Murphy's (1973) work on Title I were for the most part, detailed case studies of how a single authoritative decision was carried out, either at a single location or at multiple sites. These studies primarily described the numerous barriers to effective policy implementation and generally came to the pessimistic conclusion that government sponsored programs seldom achieved their objectives. A significant criticism of first

generation implementation studies is that there were limited attempts to develop a model of implementation process, which could explain implementation failures or provide guidance about the amelioration of the implementation problems (Lester, Bowman, Goggin & O'Toole, 1987, p. 201).

Although often drawing pessimistic conclusions and not producing implementation model processes or theoretical frameworks, first generation studies achieved three important accomplishments. First, they exposed the complexities of policy implementation for public administrators and policy analysts (deLeon & deLeon, 2002, p. 469). Second, first generation studies showed that implementation dominates policy outcomes because even the best planned, best supported, most promising policy initiatives depend on what happens as individuals throughout the policy implementation system interpret and act on them (McLaughlin, 1987, p. 172). Third, the first generation studies' usage of case studies provided rich details about policymaking and delved into nuances that may have been lost in broader treatments (Edwards, 1980, p. 7).

First Generation Implementation Studies

Pressman and Wildavsky's *Implementation* (1984, pp.1-2) analyzed the implementation of an Economic Development Administration's (EDA) program established, in the late 1960's, to provide public works grants and loans for various projects in Oakland, California that were to provide permanent new jobs to the unemployed. When completed, these projects were to provide 3,000 jobs.

At the program's start, Congress had already appropriated the necessary funds and the approval of city officials and employers were attained. Nevertheless, the program was hindered by the carrying out of ordinary, everyday activities such as maintaining

agreements after they were made and the obtaining of numerous approvals and clearances from a variety of participants (Pressman & Wildavsky, 1984, p. xx). Overall, there were 30 decision points that determined the course of the program or that had to be passed and 70 agreements entered into for the program to continue (Pressman & Wildavsky, 1984, pp. 102-106). The EDA program's primary leaders intended to carry out the program without extensive participation by other government agencies; however a large number of governmental and nongovernmental organizations and individuals became involved in the program's implementation process (Pressman & Wildavsky, 1984, p. 94).

Although none of the groups involved in the initiative disagreed with the policy of developing jobs for unemployed—creating jobs through grants for public works—the EDA program still ran into obstacles concerning the means of implementing the program. Pressman & Wildavsky (1984, pp. 98-99) provided seven reasons why the groups could agree on the ends of the program, while opposing the means for achieving the ends.

The reasons included:

1. Direct incompatibility with other commitments. The U. S. Department of Health, Education, and Welfare (HEW) came to view one of EDA's training proposals as competing for scarce funds with one of their own training institutions in the area.
2. No direct incompatibility but a preference for other programs. Numerous EDA employees viewed rural areas and small towns as the proper focus of the agency and felt that creating jobs in the urban areas was not an EDA responsibility.
3. Simultaneous commitments to other projects. Participants may have other projects that demand their time and attention. In this case, the Port of Oakland's architect/engineer delayed his work on plans for the marine terminal because his staff was busy on other port projects.
4. Dependence on others who lack a sense of urgency in the project and who do not respond promptly. In this case, consulting engineers whose expertise was needed, but did not demonstrate a sense of urgency.
5. Differences of opinion on leadership and the proper organizational role. Participants may agree in all other aspects, but disagree on about which people or organizational units should be operating the specific

programs. EDA staff persons from its operating divisions resented the special status afforded the Oakland-base EDA taskforce and after the departure of the Foley and Bradford, the Oakland project was treated with less urgency.

6. Legal and procedural differences. Involves leadership's concern about possible missteps, mistakes, and scandals due to not following established agency procedures or policies, that would result in their respective agencies and them being condemned.
7. Agreement coupled with lack of power. Some participants may agree with a policy, but may lack resources to do much to help implementation. Such as Oakland's Mayor Read who supported the EDA program, but did not have political and administrative power to force other participants to assist in the implementation of the program (Pressman & Wildavsky, p. 99-102).

In *New Towns In-Town* (1972, pp. xiii-xiv), Derthick examined President Lyndon

B. Johnson's administration's attempt in the late 1960's to create new model communities on federally owned land in metropolitan areas. The program began in the summer of 1967 with seven sites. Three sites— San Antonio, New Bedford and San Francisco—failed immediately. The other four sites—Washington, DC, Atlanta, Louisville, and Clinton Fellowship, Michigan—experienced serious difficulties and delay. Four years later, less than 300 units were under construction.

Derthick (1972, pp. 83-84) concluded that the program failed because of two primary reasons: 1) limited ability of the federal government to influence the actions of local governments and government officials and 2) the federal government's tendency to conceive goals in ideal and not realistic terms. According to Derthick, these two 'disabilities' are directly related to the federal government position as the central government in the American federal system. To achieve many of its domestic purposes, the federal government must rely upon local governments. However, because of the division of authority among governments in the nation's federal system, the federal government cannot order local governments to do anything. In addition to these two

‘disabilities,’ Derthick lists three other reasons that the New Towns In-Town program failed: 1) the inability of the poor to organize and to assert their interests; 2) the ability of local opponents to act effectively; and 3) the great difficulty of organizing cooperative activity on a large scale. Derthick argued that to achieve intended results, federal officials must have adequate knowledge of local politics to perceive what incentives are necessary; incentives must be of sufficient quantity; and must be directed to local powerbrokers whose support is required to achieve the federal government’s purpose. (pp. 83-84).

In *Implementation Games* (1977, pp. 1-3), Bardach drew on his own research on the Lanterman-Petris-Short Act of California and five other studies of program implementation to discuss administration and political obstacles that hinder the achievement of programs’ specified goals. The other studies examined the Economic Development Administration (EDA) project examined by Pressman and Wildavsky; the New Towns In-Town program examined by Derthick; Title III of the Elementary and Secondary Education Act of 1965; Title VI of the 1964 Civil Rights Act; and the Kennedy’s Administration nuclear-powered plane. Bardach argued that these programs or policies revealed three principal perils of public policy after a policy mandate is agreed to, authorized, and adopted: 1) underachievement of stated objections, 2) delay, and 3) excessive costs.

According to Bardach (1977, p. 9), the implementation process is a process of strategic interaction among numerous special interests who are pursuing their own goals, which may not be compatible with the goals of the policy mandate. From the point of view of these various interests, a new policy mandate is miniscule compared to the issues

of which they must contend. Bardach argued that at one level the implementation process surrounding any policy mandate could be understood as the playing out of numerous political and bureaucratic “games.”

Bardach (1977, p. 66) argued that there are four categories of implementation games that adversely affect on the “program-assembly process”: 1) the diversion of resources (money); 2) the deflection of policy goals stipulated in the original mandate; 3) resistance to explicit efforts to control behavior administratively; and 4) the dissipation of personal and political energies in game-playing that could be channeled into constructive programmatic action.

Diversion of resources games include easy money, the budget game, easy life, and pork barrel (Bardach, 1977, pp. 66-81). Deflection of goals games include Piling On; Up for Grabs; and Keeping the Peace (Bardach, 1977, pp. 85-95). Dilemmas of Administration games include Tokenism and Massive Resistance (Bardach, 1977, p. 98). Dissipation of Energies games include Tenacity, Territory, Not our Problem, Odd Man Out, and Reputation (Bardach, 1977, pp. 148-172).

Bardach concludes *The Implementation Game* (1977, pp.274-278) by suggesting that to facilitate policy implementation, “fixing” can occur. For example, Bardach refers to how the legislator responsible for the Lanterman-Petris-Short Act of California acted as “fixer” when he maneuvered to have technical amendments enacted, developed additional policy dimensions that dealt with emerging related concerns, and adjusted certain elements of the system of games. All with the expectation of ensuring that the resulting policy or program is in agreement with the spirit of the original mandate. In

addition, individual “fixing” coalitions of political actors with diverse but complementary resources, can also be fixers.

In 1973, Jerome T. Murphy produced a case study that examined the implementation of the Title I of the Elementary and Secondary Education Act (ESEA) between 1965 and 1972. The ESEA, a major component of President Lyndon B. Johnson’s War on Poverty, contained five titles or parts. The ESEA’s overall goal was to bring about education reform by providing schools with more than \$1 billion each year, with a focus on the educationally deprived and by providing the federal government with substantial authority to exert influence at the state and local levels. Title I provided funding for the schooling of disadvantaged children in urban slums and poor rural areas. In 1965-66, the program’s funding was \$959 million (Murphy, 1973, pp. 162-163).

In his case study Murphy (1973, pp. 172-173) examined how Title I was implemented by the U. S. Office of Education, at the federal level, and the Massachusetts State Department of Education, at the state level. Murphy concluded that after seven years Title I was beset with problems. At the federal level, the U. S. Office of Education (USOE) was charged with implementing ESEA. Within USOE, lower-level agency staff who lacked experience with grants of the size of Title I and with writing criteria governing the approval of projects were asked to implement the program. In addition, the office did not have enough staff to monitor the program effectively. By the end of 1969, there were 30 staff members working on all facets of Title I including technical assistance, accounting, and program support, but only three area desk officers for the entire nation. Area desk officers were the links with the states and had the responsibility of monitoring to ensure that the states were following the law, regulations, guidelines,

and basic criteria. The USOE desk officer responsible for Massachusetts was also responsible for 23 other states. USOE staff took a passive role towards the states. The desk officer assigned viewed his job as trouble shooting, answering complaints, and providing service. He did not want to provide leadership or act as a program monitor. He relied upon information supplied by state officials to determine if they were enforcing the law.

There was also the avoidance of evaluation. This was due to USOE not wanting to upset the federal-state balance; little expertise at the state and local levels to evaluate a broad-scale reform program; and USOE's fear of revealing that the program was not working (Murphy, 1973, p. 174).

The U. S. Department of Health, Education, and Welfare Audit Agency conducted federal audit reviews and discovered numerous violations of the law across the country including Title I funds being used as general aid for special needs of the disadvantaged. Instead of providing supplementary services, Title I funds were used in place of state and local funds. In addition, funds were used to pay for questionable purchases such as swimming pools, bedroom sets, classroom carpeting, and air conditioners. Despite documented abuses, USOE ignored the audit findings (Murphy, 1973, p. 174).

According to Murphy, there were several reasons why the USOE was hesitant to administer the Title I program aggressively and to follow-up on audit findings. First, there was pressure to move funds quickly to develop federal-state relations. To do so, officials wanted to avoid conflict that would have resulted from addressing alleged misuses. Second, to demonstrate the program's success to the public and the Congress,

program administrators sought to generate favorable statistics on the number of schools involved and the number of children affected. Third, there was confusion among Title I staff as to what was the appropriate stance to take with states. Staff members that wanted to enforce Title I generally received little support from their bureau-level bosses. Others feared that if the USOE pushed too hard, Congress would replace Title I with general aid, over which the office would have even less influence over the education of poor children (Murphy, 1973, p. 175).

At the state level, the Title I unit in the Bureau of Elementary and Secondary Education at the Massachusetts Department of Education administered the Title I program in Massachusetts. The Title I unit adopted a passive attitude, leaving almost total discretion to the 325 local school districts. The Title unit's director saw his job as mainly that of a consultant providing technical assistance and service to local school personnel and not insisting on strict adherence to the law. The State Title I director's negative attitude toward strong state action was reflected by an approval process handled through telephone conversations and visits by school district staff to the state education office prior to the submission of the formal application (Murphy, 1973, p. 180).

If local school officials sought to use questionable Title I practices, the state office attempted to dissuade them through persuasion. Other local officials simply submitted their applications to the state for approval without consultations. As a consequence, in 1969 U. S. Health, Education, and Welfare Department (HEW) audits of Massachusetts discovered that applications submitted to the state education agency for approval did not contain complete criteria as required by federal guidelines. Auditors found inadequate or

no documentation of the procedures used for selecting eligible Title I schools when they visited four Massachusetts schools (Murphy, 1973, pp. 181-182).

The Massachusetts Department of Education did not have adequate audit procedures. Although three auditors were paid for using Title I funds, only one actually audited local projects. As of 1968, less than one-third of the 1967 projects and none of the 1968 projects had ever been audited. Moreover, the only audit report created for local districts was a one-page sheet which listed Title I expenditures by such categories as instruction, food and administration, and divided the expenditure into salaries, contractual services, and other expenses (Murphy, 1973, pp.181-182).

Second Generation Implementation Studies

The second generation of implementation studies was much more sophisticated and theoretical than first generation implementation studies. Second generation scholars developed analytical frameworks to help explain policy implementation that have come to be known as the top-down and bottom-up approaches in policy implementation research (deLeon & deLeon, 2002, pp. 469-470). Top-down scholars see implementation as concerned with the degree to which the actions of implementing officials and target groups coincide with the goals embodied in an authoritative decision (Matland, 1995, p. 146). In addition, “they sought to explain variation in implementation success across programs and governmental units by reference to specific variables and conceptual frameworks (Sabatier, 1986, p. 21).”

The top-down approach starts with a policy decision usually by central government officials and then asks four questions:

1. “To what extent were the actions of implementing officials and target groups consistent with (the objectives and procedures outlined in) that policy decision?
2. To what extent were the objectives attained over time, i.e. to what extent were the impacts consistent with the objectives?
3. What were the principal factors affecting policy outputs and impacts, both those relevant to the official policy as well as other politically significant ones?
4. How was the policy reformulated over on the basis of experience? (Sabatier, 1986, pp. 22-23).”²

Scholars who developed top-down analytical frameworks include Van Meter & Van Horn (1975), Sabatier & Mazmanian (1980), and Edwards (1980).

Van Meter & Van Horn (1975, pp. 462-474) developed the first framework, which “posits six variables which shape the linkage between policy and performance.” The six variables are:

1. policy standards and objectives;
2. policy resources which facilitate administration;
3. interorganizational communication and enforcement activities;
4. the characteristics of the implementing agencies;
5. the economic, social, and political conditions; and
6. the disposition of implementers.

Van Meter & Van Horn (1975, p. 483) contended that the “model offers a blueprint for the description and analysis of the policy implementation process and that it proposes explanations for program achievements and failures.”

² First generation case studies are also considered to be a part of the top-down approach (Sabatier, 1986, pp. 21-22).

Following Van Meter & Van Horn (1975), Sabatier & Mazmanian (1980) developed a framework that identified sixteen independent variables organized into three major categories that were believed to affect policy implication. The three categories included: 1) tractability of the problem; 2) ability of the statute to structure implementation; and 3) nonstatutory variables affecting implementation.

Edwards developed a third framework in which he identified four factors believed to affect implementation. These factors include: “1) communication; 2) resources; 3) dispositions of the implementers; and 4) bureaucratic structure (Lester et al., 1987, p. 203).”

Lester et al. (1987, p. 204) also revealed criticism by arguing that although the three models presented by Van Meter and Van Horn (1975), Sabatier and Mazmanian (1980), and Edwards (1980), presented numerous variables thought to affect implementation, they failed to identify which variables were more important and under what circumstances.

Matland provided additional criticisms. According to Matland (1995, p. 147) top-down frameworks have sought to develop generalizable policy advice. “Common top-down advice is: 1) make policy goals clear and consistent; 2) minimize the number of actors; 3) limit the extent of change necessary; 4) and place implementation responsibility in an agency sympathetic with the policy goals.” While putting forth advice, Matland argues that top-down frameworks have engendered criticism. First, because top-down frameworks take the statutory language as their starting point, it is argued that they fail to consider that many implementation barriers are found in the initial stages of the policy-making process and to understand policy implementation these processes must be

studied. Analyzing the policy-making process can provide important information about the intensity of demands and about the size, stability, and degree of consensus among those seeking change. Without looking at the history of a policy, one may miss vital connections and fail to consider broader public objectives.

Second, top-down frameworks are accused of seeing implementation as a purely administrative process and either ignores the political aspects or tries to eliminate them. For example, the insistence of clear, explicit, and consistent goals contradicts the fact that the passage of legislation often requires ambiguous language and contradictory goals to maintain a passing coalition. Furthermore, it is argued that it is rarely possible to separate politics from administration (Matland, 1995, pp. 147-148).

Third, top-down frameworks have been criticized for their emphasis on the statute framers as key actors and seeing local actors as impediments to successful implementation. Whereas, from a normative perspective local service deliverers have expertise and knowledge of the true problems, in theory they are in a better position to propose useful policy (Matland, 1995, p. 148).

Bottom-Up Approach

The bottom-up approach is a competing model of the top-down policy approach. According to numerous bottom-up scholars, a fundamental flaw of top-down models “is that they start from the perspective of (central) decision-makers and thus tend to neglect other actors” and “in turn, leads them to neglect strategic initiatives coming from the private sector, from street-level bureaucracies or local implementing officials, and from other policy subsystems (Sabatier, 1986, p. 30).”

According to Matland (1995, p. 149), Hjern (1982), Hjern and Hull (1985), and Hull and Hjern (1987) have performed the most extensive empirical work within the bottom-up approach tradition. Their strategy involves studying a policy problem, by asking microlevel actors about their goals, activities, problems, and contacts. Through this approach, Hjern is able to map a network that identifies the relevant implementation structure for a specific policy at the local, regional, and national levels, and then evaluate the significance of government programs through other influences such as markets. This allows for the identification of strategic evaluations and unintended effects of policy.

Two other significant bottom-up scholars include Richard Elmore and Michael Lipsky. Richard Elmore (1979-1980, p. 604) developed the backward mapping approach which begins not at the top of the implementation process, but at the last stage where administrative actions intersect with private choices. Elmore (1979-1980, p. 605) writes that

The analytic solution offered by backward mapping stresses the dispersal of control and concentrates on factors that can only be indirectly influenced by policymakers: knowledge and problem-solving ability of lower-level administrators; incentive structures that operate on the subjects of policy; bargaining relationships among political actors at various levels of the implementation process; and the strategic use of funds to affect discretionary choices.

Michael Lipsky's (1980, p. 3) street-level bureaucrat framework challenges the top-down model assumptions that policy choices are made by central level or political executives with the idea that policy is made by street-level bureaucrats. According to Lipsky, public service workers who interact directly with citizens in the course of their jobs, and who have substantial discretion in the execution of their work are called street-level bureaucrats. Street-level bureaucrats include teachers, police officers, other law enforcement personnel, social workers, judges, public lawyers, other court officers,

health workers and many other public employees who grant access to government programs and provide services within them.

Street level bureaucrats have significant discretion in determining the nature, amount, and quality of benefits and sanctions provided by their agencies (i.e., a policeman decides who to arrest, judges decide who shall receive a suspended sentence and who shall receive maximum punishment. This is not to say that street-level bureaucrats are unrestricted by rules, regulations, directives or by norms and practices of their occupational groups. Street level bureaucrats still must contend the “major dimensions of public policy-levels of benefits, categories of eligibility, nature of rules, regulations and services- [which] “are shaped by policy elites and political and administrative officials.” (Lipsky, 1980, pp. 13-14). deLeon and deLeon (2002, p. 470) argue that street level bureaucrats are important to successful implementation and that top-down theorists ignore them at their own peril.

Bottom-up models have generated two criticisms-one normative and the other methodological:

“The normative criticism is that, in a democratic system, policy control should be exercised by actors whose power derives from their accountability to sovereign voters through their elected representatives. The authority of local service deliverers does not derive from this base of power. Decentralization should occur within a context of central control.” (Matland, 1995, pp. 149-150).

“The second criticism is that the bottom-up methodology overemphasizes the level of local autonomy.” “Variations in [local policy implementation] action can be explained largely by local level differences, yet all actions may fall within a limited range where the borders are set by centrally determined policy. While central actors do not act in detail or intervene in specific cases, they can structure the goals and strategies of those participants who are active. The institutional structure, the available resources, and the access to an implementing arena may be determined

centrally and substantially can affect policy outcomes” (Matland, 1995, p. 150).

Overall, both first and second generation studies have added much to the knowledge of what implementation is and how and why it varies as it does. However, they have been “much less helpful in differentiating among types of implementation outcomes, or in specifying the causal pattern associated with these outcomes, the frequency with which these patterns occur, and the relative importance and unique effects of each of the various independent variables that are part of any multivariable analysis of implementation on performance (Lester et al., 1987, p. 205).” Some scholars such as Sabatier (1986) and Goggin, Bowman, Lester, and O’Toole (1987) have attempted to synthesize the two approaches (Lester et al., 1987, pp. 205-206), while others have moved to establish a third generation of implementation studies.

Third Generation

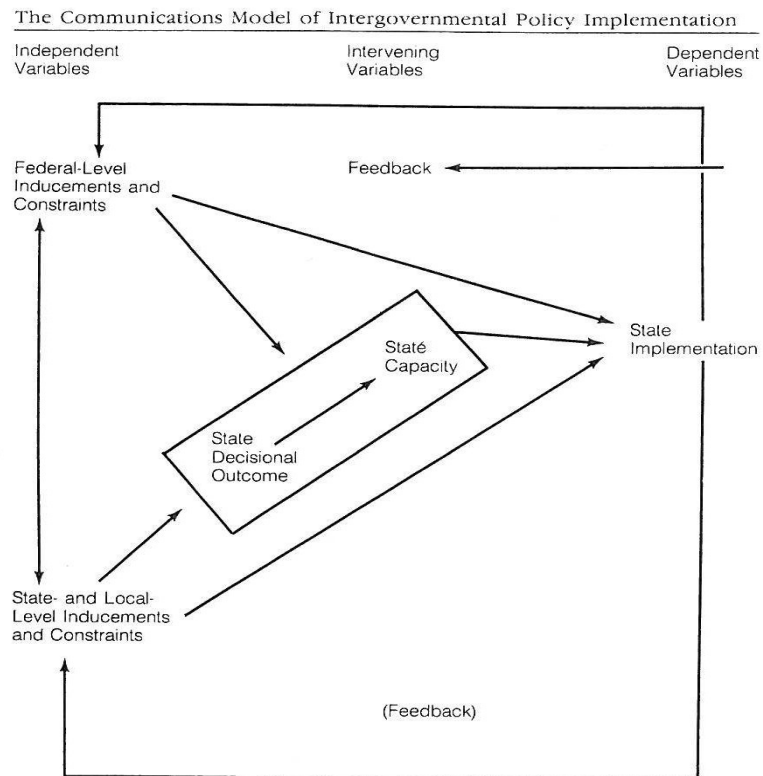
In *Implementation Theory and Practice: Toward a Third Generation* (1990, p. 171), Goggin, Bowman, Lester and O’Toole, proposed a third generation of policy implementation studies whose purpose is “to shed new light on implementation behavior by explaining why that behavior varies across time, across policies, and across units of governments and by predicting the type of implementation behavior that is likely to occur in the future.” To achieve this objective they contend that “researchers must test theory as well as develop it.” This contention means “that investigators have an explicit theoretical framework, they must generate a hypothesis to be tested, dependent and explanatory variables must be operationalized, and the necessary data collected and carefully analyzed, both comparatively and longitudinally.” As a proposed model,

Goggin et al. (1990) presents the Communications Models of Intergovernmental Policy

Implementation (Figure 1). This model includes:

“Three clusters of variables that affect state implementation: inducements and constraints from the ‘top’ (the federal level), inducements and constraints from the ‘bottom’ (the state and local levels), and state decisional outcomes and capacity. At any given point in time in any state, the interaction of these three clusters determines the course that implementation will take. The implementation experience sets into motion a feedback process in which agents (subnational politicians and administrators) transmit messages to principals (federal-level policymakers) (pp. 32-33).”

Figure 1



Source: Goggin et al. (1990)

Summary

In summary, policy implementation research has produced three generations of research. First generation research included mostly top-down, atheoretical case studies

that described the numerous barriers to effective policy implementation, while generally concluding that government sponsored programs seldom achieved their objectives. Significant barriers recognized include multiple decision points; the limited ability of the federal government to influence the actors of local government and government officials; the federal government's tendency to conceive goals in ideal and not realistic terms; implementation games played by government agency personnel; and inadequate capacity of federal and state agencies to monitor and evaluate programs.

Second generation research attempted to be more empirical by developing top-down and bottom-up analytical frameworks and attempts to synthesize these two approaches. These approaches put forth variables which were purported to affect implementation. However, no specific variables were established as having the greatest impact on successful implementation.

Third generation research sought to focus more on implementation of policies across time, across policies, and across units of government to attempt to predict implementation behavior that would likely occur in the future.

Contracting and Contract Manager Literature Review

Introduction

A significant amount of research has been performed on the various aspects of contracting. However, there is limited research on the many roles that contract managers play in assisting with the implementation of public policy, particularly in its beginning stages. The following is a literature review that provides a brief history of contracting and arguments for and against contracting, and discusses the types of contracting,

methods for awarding contracts, the contracting process, and the role of contract managers, and effective practices of successful contract managers.

Contracting is defined as “a business arrangement between a government agency and a private entity in which the private entity promises, in exchange for money, to deliver certain products or services to the government agency or to others on government’s behalf.” The private entity may be a for-profit business or a nonprofit organization (Kelman, 2002, p. 282). Contracting is one of several privatization arrangements that governments pursue to deliver goods and services in hopes of reducing costs and achieving quality improvements (Van Slyke, 2002, p. 489).

Government’s usage of contracting began in the 1700s during the colonial period (Cooper, 2003; Thai, 2001; Kelman, 2002, Kettl, 1998, Kettner & Martin, 1987, & Nagle, 1999). The usage of contracting grew tremendously starting in 1955 when President Eisenhower signed a formal policy which advocated for the government’s greater usage of private markets for the securing of goods and services. Later in the 1960s, several legal challenges and political directives, such as the Public Assistance Amendments of 1962 and 1967, further spurred the widespread usage of contracting. These amendments were enacted as the result of the War on Poverty and Great Society Programs established during the Kennedy and Johnson administrations. The Economic Opportunity Act of 1964 also helped to spur the usage of contracting for the production and distribution of services. The 1967 amendments to the Social Security Act allowed purchase-of-service contracting with nonprofit organizations for the first time (Van Slyke, 2002, pp. 491-492).

Proponents and Opponents of Contracting

There are many arguments for and against contracting. Brown & Potoski (2003a & 2003b) assert that enough research has identified cases of effective contracting that show contracting can improve government; while enough research has also identified cases of failed contracting that show contracting has risks and pitfalls. Researchers in favor of contracting assert it has: 1) the potential to improve efficiency and increase cost savings; 2) the potential to decrease the role of government in the public sector; 3) the potential ability to increase flexibility in meeting the needs of citizens; 4) the potential ability to help address the shortage of available employees to replace retiring government employees; and 5) the potential to enable public managers to focus on carrying out their agencies' core activities, instead of focusing attention on less important work (O'Neil, 2007, pp. 23-25).

In contrast, there are researchers who argue that contracting is detrimental to the management of government and is having a negative impact on the public sector. These opponents have presented several concerns that relate to: 1) the appropriate role of government; 2) the process; and 3) consequences. Concerns that relate to the appropriate role of government include: 1) the argument that there is inherently government work that should only be done by government and not by the private sector, such as work that requires the exercise of discretion in applying government authority and 2) contracting results in the diminution of Constitutional protections which result in citizens' rights being compromised (O'Neil, 2007, p. 25).

Concerns that relate to the process include: 1) in situations where there are inadequate supply of providers opponents argue that there is really no competition,

therefore government is not likely to see any economic benefit to contracting out; 2) the high transaction costs of contract management and monitoring contractor compliance offset any gains in efficiency; 3) contracting out may make it difficult to hold government agencies and its officials accountable when nongovernmental organizations are contracted to provide services (O'Neil, 2007, p. 26).

Concerns that relate to consequences of contracting include: 1) questions as to whether contracting really produces cost savings; 2) the argument that contracting creates the hollow state where public entities because of the shift of its resources to external entities, lack the capacity to deliver public services themselves and are now dependent upon the private sector for the implementation of programs ; 3) the argument that contracting often results in government employees losing job security and employment; and 4) instead of reducing regulations, contracting sometimes has resulting in increased regulations (O'Neil, 2007, pp. 26-27).

Types of Contracting

There are several types of contracting including definite-quantity contracts, indefinite-quantity contracts, fixed-price contracts, cost-reimbursement contracts, performance based contracts, and purchase of service contracts. Definite-quantity contracts dictate specific quantities of items to be delivered on a schedule in a specified time period. Indefinite-quantity contracts (also known as blanket orders or open-end contracts), establish a source or sources of goods or services for a specified time period and usually has an estimated or definite minimum quantity, with the possibility of an additional requirement beyond the minimum, all at a predetermined unit price (MacManus, 1992, p. 53).

Generally a fixed-price contract is based on an agreed-upon unit cost for a selected unit of a good or service. There are five types of fixed-price contracts: 1) firm fixed-price contract; 2) firm fixed-price contract, level of effort contract; 3) fixed-price with economic adjustment contract; 4) fixed-price incentive contract; and 5) fixed-price redetermination contract (MacManus, 1992, pp. 54-55).

Cost-reimbursement contracts are less common and provide for payment of incurred costs which are allowed under the contract; total cost is estimated for the purpose of obligating funds; a ceiling is established that the contractor may not exceed. Five types of cost-reimbursement contracts exist: 1) cost-reimbursement, cost contract; 2) cost-reimbursement, cost-plus-award-fee contract; 3) cost-reimbursement, cost-plus-fixed-fee contract; 4) cost-reimbursement, cost-plus-incentive-fee contract; and 5) cost-reimbursement, cost sharing contract (MacManus, 1992, pp. 54-55).

Performance Based Contracting

According to Martin (2002, pp. 57-58), a performance based contract ‘focuses on the outputs, quality, and outcomes of service provision and may tie up at least a portion of a contractor’s payment as well as any contract extension or renewal to their achievement.’ State human service agencies are among the first to use performance based contracting. As of 2005, at least ten states and Washington, DC were using performance based contracting. Florida and Maine state legislatures have mandated the use of performance based contracting for all human service contracts. Performance based contracting has been used to procure a wide arrange of services including health services, employment services, correctional services, educational services, and child welfare services (Planning and Learning Technologies & the University of Kentucky, 2006, p. 3).

Pennsylvania is an example of a state which adopted welfare-to-work performance based contracting. The Pennsylvania Department of Welfare pays contractors fixed rates for certain milestones that are achieved. Examples of milestones and corresponding payments include:

1. "Participation (client completes an assessment) \$1,000;
2. Placement (client obtains unsubsidized employment) \$1,000;
3. Medical Benefits (the job includes medical benefits) \$400; and
4. Job retention (client remains employed for 12 months) \$1,600 (Planning and

Learning Technologies & the University of Kentucky, 2006, p. 4)."

Purchase-of-Service Contracting

There is a distinction between contracting for procurement of products and services used directly by the government agency and contracting for the delivery of government-funded services by third parties to external recipients. The latter arrangement is usually called purchase-of-service contracting (Kelman, 2002, p. 283).

Purchase-of-service contracting has long been an important aspect of the nation's human service delivery system and expanded significantly during the 1960s and 1970s, especially in the Northeast and Midwest. These areas have a tradition of government and nonprofit cooperation to address social and economic problems. Usually, human services are purchased by state, city, or county governments and delivered by nonprofit agencies. Human services has several distinctive features. First, these services are often directed at changing the behavior and circumstances of disadvantaged populations and thus often are complex and involve many uncontrollable factors and produce uncertain outcomes. As a result, the measurement of performance and success is problematic or not easily agreed

upon. Thus, it is more difficult to reward and punish contractors because many factors may be outside their control. Second, these services are usually highly labor intensive, thus, making it difficult to reduce or control costs and the exercise of discretion by service providers is an important element in the process. Third, because of the service population involved, the difficulties encountered in defining performance, and the high level of service providers' discretion, the purchasing agency must invest significant time and expense to review and monitor the service delivery process. While other public services or goods may have some mechanisms to indicate service problems, these mechanisms are often unreliable or absent in the delivery of human services, where clients have limited opportunities or resources to voice their needs (DeHoog and Salamon, 2002, pp. 319-320).

Methods for Awarding

There are formal and informal methods for awarding contracts. Formal methods include competitive sealed bids, competitive sealed negotiations, and two-step formal advertising and bidding. Informal methods include request for proposal, request for quote, set-aside, emergencies, small purchases, exempted services, and preference policies (MacManus, 1992, pp. 42-50).

The Contracting Process and the Role of Contract Managers

According to Phillip Cooper, the contracting process and the job of the contracting manager, who serves as the government agent, are complex. The contracting manager is the person assigned the responsibility of representing the government in procurement (Cooper, 1980, p. 460). The contracting manager works in an environment that requires him to obtain the best value from contracts, while contending with a history

of corruption and concerns about contractor accountability. Best value means more than obtaining the lowest price. It means working through a series of trade-offs among conflicting criteria—economy, efficiency, effectiveness, equity, responsiveness, and responsibility (Cooper, 2003, pp. 4-7).

Economy relates to providing more of a product at a lower cost. Efficiency refers to the amount of output per unit of resources invested. Effectiveness is an assessment of the degree to which a contract delivers the services needed at a high level of quality. Equity requires that government not discriminate in its provisions of public services or programs and that government address a variety of needs for different communities. Responsiveness is the ability to react easily or readily (Cooper, 2003, pp. 4-7).

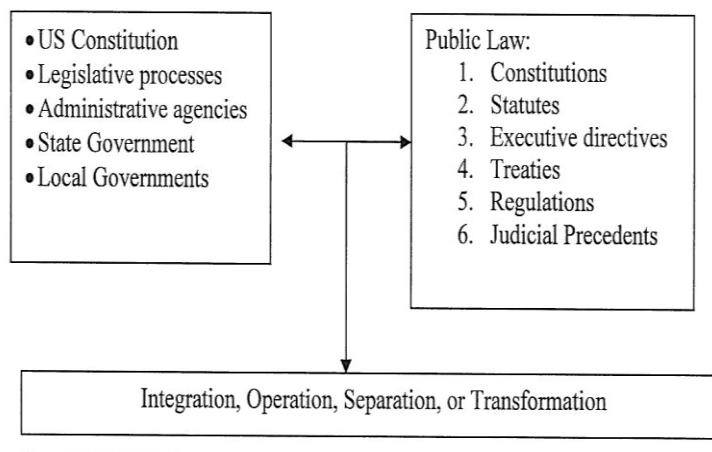
Economy, efficiency, and effectiveness can conflict because cheap goods or very efficient service may not always be the most effective. Effectiveness may conflict with responsiveness because the best quality services may take longer to provide than citizens are willing to accept. Responsiveness, efficiency, economy, and effectiveness can be limited by the demands for political and legal accountability. Equity may conflict with economy and affect efficiency when efforts are made to address the special needs of individuals, groups, or communities by increasing costs and diminishing efficiencies that would otherwise come with the usage of standard operating procedures (Cooper, 2003, pp. 4-7).

According to Cooper (2003) and Nagle (1999), the contracting manager's work to achieve the best value from contracts is complicated by the public's longstanding fear of corruption in awarding contracts and lack of accountability during monitoring contracts. Throughout history there have been numerous examples of corruption including war

profiteers who have taken advantage of the public in every military conflict since the American Revolution; suppliers who have provided poor quality products at inflated rates, and modern medical care providers who double-billed and then threatened to withdraw from service if their actions are not tolerated (Cooper, 2003, pp. 7-8).

As contract managers work through the process of tradeoffs and contend with the public's fear of corruption, Cooper argues that they do all of this while at the intersection of a vertical, authority-based model and a horizontal, negotiation-driven model (Figure 2) (Cooper, 2003, p. 13).

Figure 2
Cooper's Vertical and Horizontal Model
As diagramed by M. Aklin



According to Cooper, the political process that results in the decision to contract, the appropriation of funds, and corresponding accountability techniques starts from the U. S. Constitution, flows down through horizontal legislative processes and administrative agencies to the point where contracts are made and managed. The model is governed by the constitutions, statutes, executive directives, treaties, regulations, and judicial precedents—that together are known as public law. State constitutions, in turn, establish

the authority and responsibility under which state officials operate. Next in line, are local governments, which exist and operate under state constitutions and laws (Cooper, 2003, p. 12).

The horizontal model comes into play once the decision to contract for goods or services has been made and operates simultaneously with the vertical model.

Theoretically, this model is horizontal in character and operates from a base of mutual commitment, where all involved parties are equals. The horizontal model is based on the three aspects of the contract relationship. The first is the integration of a nonprofit, a firm, or another agency with the government unit. The second is the operation of the joint endeavor. The third is the separation of or transformation of the relationship when a contract ends or undergoes major revision (Cooper, 2003, pp. 48-49).

Integration

The integration phase involves forming the contract relationship and establishing the rules by which the relationship will operate (Cooper, 2003, p. 54). Once the decision is made to contract, authorization to contract is formally delegated to the contracting manager, and funds are made available, the contracting process can move forward. Traditionally, the steps taken to enter into a contract are known as the pre-solicitation and the solicitation phases (Cooper, 2003, pp. 76-77).

In the pre-solicitation phase specifications or the statement of work are prepared. This is an area where managers feel pressured because of the history of government receiving poor quality products and service, which has prompted many public managers to seek stringent specifications. Demanding specifications far beyond what is normally available may limit the number of bidders willing and able to respond. On the other

hand, if the agency understates its specifications in the hopes of receiving lower bids, often it finds that it would have saved more money in the long run, if it had presented more stringent specifications (Cooper, 2003, p. 79).

Two approaches managers use to assist with developing specifications and statements of work include hiring a consultant and inviting potential bidders to participate in open conversations about specifications. Once specifications are delineated then managers develop and issue the invitation for bid (IFB) or the request for proposal (RFP). Subsequently, bids are received and a contractor selected (Cooper, 2003, p. 80).

In some situations, these steps are circumvented by a decision to contract on a sole source or single selected source basis. In most jurisdictions, some justification for sole source contracts is required because it bypasses market competition (Cooper, 2003, pp. 80-81).

In addition to the normal bid process, there is another process called two-step contracting. This process is often preferred in complex service agreements or large system purchases. In the two-step process, the agency invites bids from which it chooses a short list of desirable contractors. Afterwards, it begins negotiating with the highest-rated bidder until agreement is reached or discussions reach an impasse. If an impasse occurs, the agency moves to the second-ranking bidder and so on (Cooper, 2003, p. 82).

While going through the bid process, managers should be mindful of national goals or social goal clauses. This represents the government's long-standing use of contracts as vehicles to make public policy and take advantage of change in the private sector. Policies related to national goals and social concerns are often presented in two ways in the bid process: 1) as a list of certifications that contractors must comply with

such as civil rights requirements, wage rate requirements, and other federally imposed conditions and 2) awarding a bidder extra points in the evaluation process for meeting policy goals such as the use of environmentally friendly materials or hiring subcontractors that are minority or women owned enterprises. Every president since Franklin Roosevelt has used federal contracting to press for change in hiring or business practices (Cooper, 2003, pp. 82-83).

Operations

Once the integration phase of the contracting process is completed, the operations phase, also known as the contract administration begins. There are several components in the operations phase including contract negotiation, contract drafting, contract oversight, and contract auditing (Cooper, 2003, p. 93).

Before a contract is finalized, contract negotiations must occur between the contracting agency and the contractor. There are three sets of concerns that impact negotiations. First is the problem of reaching agreements that will ensure that needed services are delivered. Second is the government's need to guarantee its ability to maintain transparency and accountability throughout the contract's life. Third is building an effective working relationship that is both strong enough and flexible enough to meet changing circumstances and unforeseen problems. The way a government unit handles negotiations could affect the willingness of contractors to bid on future contracts and how other entities might handle negotiations with that respective government unit (Cooper, 2003, pp. 94-95).

Contract drafting follows contract negotiations. Contract drafting involves the actual development of contracts which usually includes the general statement of work,

overall price agreement and a significant amount of boilerplate provisions. When government includes incentive and penalty clauses that provide benchmarks to assess performance, and mechanisms to encourage contractors to exceed minimum levels at a lower cost than required under the contract, the contract is generally referred to as a performance contract. Once the contract is drafted and signed, the actual contract administration begins (Cooper, 2003, p. 98). Unfortunately, few governments have adequate well-trained, contract management capacity (Cooper, 2003, p. 102). State agencies have a propensity to assign former program staff to contract management positions with no guarantees of intensive training in contract management (Kettl, 1993; Harney, 1992; O’Looney, 1998). Having a trained, experienced, skilled contract manager is critical to the success of contracting administration (Gooden, 1998; Romzek & Johnston, 2002; Kettl, 1993; O’Neil, 2007; Cohen & Eimicke, 2002).

While contractors are implementing their contracts, contract managers must provide contract oversight which involves auditing. Generally, there are three kinds of audits to ensure the contractor was performing the contract, that its financial practices met the contract and federal laws, and that it was complying with certifications that it had submitted concerning government labor standards, civil rights requirements, and other policies. These are generally known as performance, financial, and compliance audits (Cooper, 2003, p. 105). If necessary, managers can intervene into a contractor’s operations by issuing change orders (Cooper, 2003, p. 107).

Separation

The third phase of the contract process is the termination of a contract or the transformation of an existing contract. Cooper argues that this phase is also complex and

dynamic as the integration and operation components of the contracting process. Cooper states that there exists two realities that exist that managers must function that make the process complex for managers. First, many contracts are not just simple purchases, but alliances, many of which involve critically important interdependent relationship between government and its contractors. This is why, in many instances the real option is to transform a contractual relationship into a more functional situation, instead of terminating it completely. Second, in the termination stage, managers also operate at the intersection of the horizontal contract model—driven by negotiation and influenced by important business-related considerations— and the vertical, authority-based model—driven by political complexities (Cooper, 2003, p. 125).

There are several possible reasons for contract termination or contract transformation. These may include the contractor defaulting on the contract, a new opportunity for better service delivery becomes available, or a new opportunity to rebid the contract to save money becomes available. A contractor can default for many reasons, including incompetence, under capitalization, management inadequacies, subcontractor lapses, or bankruptcy. In some instances, the contractor may inform the government agency of its inability to fulfill its contractual obligations. In other instances, the manager will have to monitor the contract services and initiate adverse actions if required (Cooper, 2003, p. 126).

Signals for termination originate from a variety of sources including contractor reports, inspections, and complaints. Reports that result in termination may come from line personnel, outside inspectors, or intended service recipients (Cooper, 2003, p. 127). While there are several acceptable reasons for contract termination, there are also

unacceptable reasons. Three possible unacceptable reasons a contract may be terminated include an agency's actions going beyond its authority or jurisdiction; an agency behaving in a manner that is arbitrary and capricious or abuses its discretion; or the agency violating the Constitution, statutes, or properly issued administrative rules (Cooper, 2003, p. 129).

Provider of Technical Assistance

An additional role contract managers fulfill during the vertical model of contracting, is providing technical assistance to contracting entities, particularly nonprofit entities (Van Slyke, 2002, p. 500). According to DeHoog (1986, p. 42), providing technical assistance requires “significant time, effort, and skill, particularly in translating government language and regulations into terms that can be comprehended by the professionals in the nonprofits.” In many instances, new contractors often do not understand requisite forms, regulations, elements of the contracting process, or lengthy start-up periods before programs can actually begin. Sometimes, nonprofits are not adequately staffed or are inexperienced in significant areas, such as fiscal record keeping, public relations, or proposal writing.

Effective Practices of Contract Managers

Gooden (1998, pp. 502-507) identifies eight effective practices that successful contract managers use in the contracting relationships with third-party service providers. Several of the practices include the contract manager ensuring needs assessments of clients' needs and pre-bid planning; monitoring waiting lists and utilization of services; including staff's expertise and outside participants in reviewing and rating proposals, using a standard rating form to rate proposals; conducting debriefings with unsuccessful

bidders; and providing technical assistance to prevent bidders from failing; sharing information based on their personal experience, knowledge, involvement and technical expertise.

Summary

In summary, contracting has been a tool used by government to secure goods and services since the 1700s. Two major contracting types include purchase-of-service contracts which generally seek to secure human services and performance based contracting which pays contractors based upon performance.

Contracting is a very complex process and the contracting manager serves as the government agent. Contracting managers are responsible for seeking the best value which means more than obtaining the lowest price. It requires contracting managers working through a series of trade-offs among conflicting criteria including economy, efficiency, effectiveness, equity, responsiveness, and responsibility. While navigating among the tradeoffs, contracting managers must do it at the intersection of a vertical, authority-based model and a horizontal, negotiation-driven model. Contracting managers' expertise, skills, and experience and willingness to provide technical assistance facilitates contract success.

CHAPTER III – Methods

Introduction

This research study utilized the qualitative case study method. According to Yin (2003, p. 13), a case study is an empirical inquiry that investigates a contemporary phenomenon within its real-life context; when the boundaries between phenomenon and context are not clearly evident; and in which multiple sources of evidence are used. Case studies are good to use to answer “How” questions (Yin, 2003, p. 6). Yin (2003, p. 2), details five components of case studies:

1. “a study’s questions;
2. its propositions, if any;
3. its unit(s) of analysis;
4. the logic linking the data to the propositions; and
5. the criteria for interpreting the findings.”

Research Questions

This study sought to address two questions:

1. What are the roles of public sector contract managers in the implementation of the Charitable Choice provision in Maryland?
2. How was the Charitable Choice provision implemented in Maryland?

Propositions

Utilizing the contract manager and policy implementation literature as a guide, the researcher developed contract managers’ roles and policy implementation propositions presented below. According to Yin (2003, p. 22), each proposition directs attention to something that should be examined within the scope of the study.

I. Contract Managers Roles Propositions

A. Integration Phase of Contracting Process

1. Contract managers participate in needs assessment to determine the needs of Temporary Assistance for Needy Families (TANF) customers.
2. Contract managers develop the Request for Proposals for Purchase of Service Contracts.
3. Contract managers oversee the solicitation of proposals.
4. Contract managers coordinate the scoring of proposals.

B. Operations Phase of Contracting Process

1. Contract managers draft contracts for contractors.
2. Contract managers negotiate contracts with contractors.
3. Contract managers perform contract oversight/monitoring.
4. Contract managers perform contract auditing.

C. Separation Phase of Contracting Process

1. Contract managers terminate contract after completion of contract by contractor.
2. Contract managers terminate contract because contractor fails to meet contract obligations.

D. Additional Roles

1. Contract manager provide technical assistance to contractor.

II. Policy Implementation Propositions

A. State Level Implementation

1. Charitable Choice policy is assigned to a specific state agency for policy implementation oversight.
2. State Agency provides clear guidance and instruction on how to implement Charitable Choice policy and its requirements.
3. State Agency provides resources (i.e., technical assistance and staffing) to assist local agency staff with implementing policy at the local level.
4. State Agency facilitates the necessary adjustments to agency policies, or state regulations or codes necessary to implement Charitable Choice policy.

B. Local Level Implementation

1. Charitable Choice policy is assigned to a specific department in local agency for policy implementation oversight.
2. Local agency develops strategy on how to implement Charitable Choice policy and its requirements.
3. Local agency secures necessary technical assistance and staffing to implement policy at the local level.
4. Local agency staff makes adjustments to local agency policies and practices in order to implement Charitable Choice policy.

C. Interactions with Faith-Based Contractors

1. Faith-Based contractors require extensive technical assistance to fulfill its contract requirements
2. Faith-Based contractors provide feedback on adjustments to local agency policies and practices.
3. Faith-Based contractors' performance is equal to previous non-faith-based providers.

Units of Analysis

Baltimore City Department of Social Services (BCDSS) contract managers involved in the administration of the Family Investment Bureau Intensive Job Services Program (RFP- BCDSS/IMA-97/016-S) contracts during 1997-2000, were selected as units of analysis for this study. BCDSS was one of the 24 Maryland Department of Human Resources local offices that chose to contract on a competitive basis for the delivery of services to welfare recipients (known now as Temporary Cash Assistance (TCA) customers in Maryland). Originally, the researcher believed that there were numerous Maryland religious organizations (sectarian organizations or their separate 501 (c) (3) nonprofit organizations) representing several jurisdictions, that had secured performance contracts to provide these services.³ However, after reviewing the 1997 to 2006 editions of the Maryland Contract Weekly, minutes from the Maryland Board of Public Works, and speaking with BCDSS contract managers, only three religious organizations were identified: Payne Memorial Outreach, The Caroline Center, and Catholic Charities.⁴

³ Temporary Cash Assistance customers is the term used by the Maryland Department of Human Resources to denote Temporary Assistance to Needy Families recipients.

⁴ Maryland law requires that notice of all State solicitations and awards valued above \$25,000 be published in the Maryland Contract Weekly and emergency and sole source contracts valued above \$10,000. Many agencies also voluntarily publish solicitations valued below \$25,000. See Maryland State Procurement Regulations in COMAR Sections 21.05.02.04 and 21.05.09.07. Most of Maryland government agencies contracts that exceed \$200,000 must be approved by the Maryland Board of Public Works, which is made up of the Governor, the Comptroller and the State Treasurer.

Data Collection

In this research study, semi-structured interviews and documents served as evidence.

Interviews

Semi-structured interviews are well-suited for case study research because “researchers ask predetermined, but flexibly worded questions, the answers to which provide the tentative answers to the researchers’ questions” and because they “invite interviewees to express themselves openly and freely and to define the world from their own perspectives (Hancock & Algozzin, 2006, p. 40).” Interviewees were selected because of their expertise or knowledge of and participation in the activities that occurred during the ten year period covered by the research study.

Interviews incorporated an interview protocol which contained the proposed outline of the interview and the questions that the researcher planned to ask each interviewee. The interviews were conducted face-to-face. The conversations were transcribed by a professional transcriber who produced transcripts. Each transcript was reviewed by each interviewee for accuracy. Each interviewee understood that he/she could, at any time discontinue. Interviewees signed a consent form before being interviewed.

The questions asked sought to gain information on the details of the specific roles that contract managers played in the total contracting process including needs assessments of clients, solicitation preparation, solicitation of offerors, proposal reviewing and scoring, contract negotiations, contract administration, contract termination/transformation, and providing technical assistance. In addition, interviewees

were asked what they knew about the implementation process of the Charitable Choice provision from the state to local government agency levels.

Documents

The researcher asked each interviewee for any copies of documents that were referenced in the interviews and for other documents that could corroborate what had been mentioned in the interview and could provide additional information relevant to this research study. Examples of documents collected included Maryland TANF State Plans, contracts, RFPs, legislative hearing reports, legislative bill folders materials, performance reports, technical assistance materials, agency planning documents, memoranda, and newspaper articles.

According to Yin (2003, p. 87), the most important use of documents in case study research is to corroborate and augment evidence from other sources. Documents are help to verify correct spellings and titles or names of organizations that may have been mentioned in an interview and can help corroborate information from other sources.

Data Analysis

The researcher selected to utilize Miles & Huberman's (1994, pp.10-11) qualitative analysis process to analyze the research study data. Miles & Huberman "define analysis as consisting of three concurrent flows of activity: data reduction, data display, and conclusion drawing/verification." The definitions for each follows:

1. Data reduction refers to the process of selecting, focusing, simplifying, abstracting, and transforming the data that appear in written field notes or transcriptions.
2. Data display is an organized, compressed assembly of information that permits conclusion drawing and action.

3. **Conclusion Drawing and Verification:** occurs when the researcher from the beginning decides what things mean by noting such things as patterns, explanations, and propositions. Verification includes revisiting notes or engaging in efforts to replicate a finding in another data set.

Data Reduction and Display

Immediately upon receiving the verified interview transcripts from individual interviewees, the researcher reviewed the electronic Microsoft Word version of each transcript for information that supported specific propositions. When a match was identified, the researcher transferred the corresponding transcript sentences line numbers into a matrix that had the propositions listed in the first column and the names of respondents listed across the other columns.

The researcher reviewed each document collected for information that supported specific propositions. When a match was identified, the researcher transferred the name of the document and corresponding page number(s) into a matrix that had the propositions listed in the first column and the names of respondents listed across the other columns.

Conclusions Drawing

Upon the completion of the analysis of the interview transcripts and documents, the researcher drew conclusions as to how many interviewees and document responses supported each propositions. The results were displayed in tables.

Afterwards, summaries of findings were prepared for each set of propositions and the answers to the research study questions, followed by Conclusions, Significance of Study and Recommendations for future research.

Limitations of the Study

There are two limitations related to this research study. The first limitation is related to the personal bias of the researcher. The researcher is the former Executive Director of Payne Memorial Outreach and the project director that supervised the performance-based contract funded by the Baltimore Department of Social Services. This type of case study requires that the researcher interview persons who either directly or indirectly managed the contract that the researcher oversaw. In order to counter any bias, each interviewee reviewed his/her individual transcript for accuracy.

The second limitation is that the findings from the study were not generalizable to the total population of contract managers because the sample size was too small and because interviewees were not randomly selected. In addition, the findings may not be generalizable to all types of religious organizations in all types of locations.

CHAPTER IV – Findings

Introduction

Chapter four details the findings of this research study. The findings are organized into two sections that address the two research study questions: 1) how was the Charitable Choice provision implemented in Maryland? and 2) what are the roles of public sector contract managers in the implementation of the Charitable Choice provision in Maryland.

The Implementation of Charitable Choice in Maryland

Background of Maryland

One of the original 13 colonies, Maryland is a geographically, small, state with approximately 5.6 million residents. It has 24 jurisdictions that include 23 counties and Baltimore City, which are racially and economically diverse. It has rural counties in the west, south, and east and Baltimore City with a high concentration of low-income individuals surrounded by wealthy suburban counties in the center. Politically, the Democratic Party dominates the state (Winston, 2002, p. 115). Maryland has a three-branch form of state government—judicial, executive, and legislative (Boyd, 1987, pp. 34-36).

When comparing the powers of Maryland's governor to the governors of other states, the governor of Maryland falls into the category of having strong formal powers. The governor has extensive authority to appoint and remove key staff in the executive branch of State government. In addition, the governor appoints hundreds of persons to boards and commissions (Boyd, 1987, pp. 43-44). Another formal power of the governor is the authority to develop the state's budget. All state agencies submit their budgets to

the governor, who decides the specific amounts that will be requested from the legislature. The budget process allows the governor to exercise significant control over the various agencies of state government. In addition, Maryland's constitution restricts the actions that the legislature may take with respect to the budget. The governor's proposal may not be increased or rearranged between programs and categories. The legislature may only reduce the amounts proposed by the governor (Boyd, 1987, p. 45). The governor also enjoys the right to reject or disapprove a portion of an appropriations bill while accepting the remainder of the measure (Boyd, 1987, p. 47).

Although the governor has significant formal power, the Maryland's bi-cameral legislature (Senate and House of Delegates) does have some influence on the development of the budget. While Maryland's governor has no obligation to include the legislature's preferences, however, the governor does need the support of the legislature to pass the state's budget bill. Despite the limitations on the legislature's powers to impact the budget, the legislature can impact capital construction, the extent and level of government services, regulation of businesses and industry, state criminal law, and support for economic development (Boyd, 1987, p. 74). The legislature also oversees the operations of the State and the need for legislation by conducting inquiries and investigations (Ehrlich, 2007, p. I-17). Much of the work carried out by the legislature is performed by select, standing, and joint committees, and task forces (Boyd, 1987, p. 64).

The William Donald Schaefer Era (1987-1995)

The State of Maryland undertook welfare reform several years before the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) was enacted in August 1996. Governor William Donald Schaefer (D), who served from 1987

to 1995, oversaw welfare reform in Maryland during the early 1990s. During this time period, welfare reform was of great interest in Maryland for several reasons including: 1) a nationwide recession that resulted in a dramatic increase in Maryland's welfare rolls; 2) Delegate Sandy Rosenberg, a highly respected state delegate, requested financial incentives for welfare recipients to change their behavior; and 3) a governor who desired changes in the state's welfare system and who wanted immediate action (Norris & Bembry, 1995, p. 148).

Early in his second term as governor (January 1991-January 1995), Governor Schaefer requested officials from the Maryland Department of Human Resources (DHR), the state's welfare agency, to develop proposals to reform Maryland's welfare system (Larson, 2008). Subsequently, on November 26, 1991, the Secretary of DHR, Carolyn Colvin, held a press conference to announce a major restructuring of Maryland's welfare system that included implementing two new programs: the Primary Prevention Initiative (PPI), which changed Maryland's Aid to Families with Dependent Children (AFDC) program and the Disability Assistance and Loan program (DALP), which changed Maryland's General Public Assistance program (Norris & Bembry, 1995, pp. 147-149).

PPI was a statewide demonstration project, whose goal was to "prevent long term dependency by promoting preventive health care and school attendance." PPI required AFDC recipients: 1) to have their pre-school children obtain preventative health care and 2) to have their school-age children attend school at least 80% of the time. PPI began implementation in July 1992. Beginning in January 1, 1993, if an AFDC recipient was unable to fulfill program requirements, he/she had \$25 per child deducted from his/her monthly grant (Governor's Commission on Welfare Policy, 1993, pp. 4-5). Throughout

its existence, PPI experienced significant implementation challenges, but continued until 1996. Research eventually showed that there was no evidence that PPI-related sanctions changed client behavior (Stoker & Wilson, 1998).

Despite the challenges encountered with the implementation of PPI, Governor Schaefer was very much interested in continuing welfare reform. In January 1994, in his last State-of-the-State address, he proposed a number of changes that were based on the interim report of the Governor's Commission on Welfare Policy. House Bill 482, which contained Governor Schaefer's proposed changes, was eventually approved by the Maryland General Assembly in the final minutes of the 1994 legislative session; however Governor Schaefer vetoed the bill because it did not contain a cap that froze benefits for women who had additional children. He argued that the cap was essential to maintaining cost neutrality, which was a prerequisite of federal approval (Winston, 2002, pp. 117-118). Since there is no next session of the Maryland General Assembly (the assembly only meets once a year, for 90 consecutive days from mid-January to mid-April), the Governor's veto could not be overridden (Larson, 2008). Although events did not happen as hoped by Governor Schaefer, welfare reform was still an issue that others desired to address including local departments of social services directors and religious organizations.

The Community Directed Assistance Program (C-DAP)

In July 1994, the Community Directed Assistance Program (C-DAP) began officially operating in Anne Arundel County, Maryland. C-DAP, a pilot program, was created by Edward R. Bloom, the then director of the Anne Arundel County Department of Social Services. Maryland has a local department of social services located in each of

its 23 counties and Baltimore City. Through C-DAP, nonprofit organizations were recruited to serve as community sponsors to work with welfare recipients to resolve problems, find employment, and become self-sufficient within six months. The community sponsors received one year's worth of the welfare recipient's cash grant to develop plans for the recipient's family. The funds were to be used for job training, day care, transportation, food, clothing or to pay bills. Community sponsors were required to file monthly reports describing how funds were spent and the family's progress. In the first year, the program sought to recruit 50 sponsors. The cost of C-DAP for the first year was \$400,000, which was funded by county and state funds. Anne Arundel County Executive Robert R. Neall provided 50% of the budget, which is the share usually funded by the federal government, to ensure that Mr. Bloom would not be hindered by federal regulations (McCabe, 1994).

During the program's first three years, all of the community sponsors were local religious congregations, which received no monetary compensation. Thirty-three families were referred to C-DAP and 29 completed the program (Yates, 1998).

The Parris N. Glendening Era (1995-2003)

In November 1994, Parris N. Glendening (D) won the election to succeed Governor Schaefer. While campaigning, then candidate Glendening did not make welfare a major campaign issue. However, it was during his two terms as governor that Maryland enacted the most comprehensive welfare reform that the State had ever experienced—the Welfare Reform Pilot Program and Child Support Reform Act of 1995 and five Welfare Innovation Acts.

Welfare Reform Pilot Program and Child Support Reform Act

Although Governor Glendening did not have a significant interest in welfare reform, the Department of Human Resources and several members of the Maryland legislature did. At the beginning of the 1995 legislative session, leading legislators, supported by DHR Secretary Alvin C. Collins and his deputy, Lynda G. Fox, resurrected the waiver pilot program. Subsequently, the General Assembly passed the Welfare Reform Pilot Program and Child Support Reform Act (Senate Bill 754) and Governor Glendening signed it into law on May 1995 (Winston, 2002, p. 118). The bill synopsis follows,

“Requiring the Secretary of Human Resources to establish and implement a Welfare Reform Pilot in Baltimore City, Prince George's and Anne Arundel Counties; providing for the application of the Program and for certain exemptions; establishing conditions for eligibility for certain benefits; providing for the continuation of medical assistance coverage under certain circumstances; requiring the Secretary to establish certain benefit reductions and certain exemptions, etc. (Maryland Department of Legislative Services, 1995).”

The law brokered a compromise family cap that was implemented statewide and awarded no new cash for additional children born while their mothers were on welfare. Instead, the value of the benefit, estimated to be \$80 per month, was to be provided to a third party who would be responsible for giving the family goods and services for the child. This benefit known as the 'child specific benefit' was highly contested by many persons in the religious and nonprofit communities, which were expected to act as the third party providers (Winston, 2002, p. 119). The pilot program was never fully implemented. After the 1995 legislative session, DHR and members of the legislature agreed to anticipate federal welfare reform by introducing comprehensive statewide system of

changes that essentially rendered the pilot program obsolete after PRWORA was enacted 1996 (Winston, 2002, p. 120.)

Welfare Innovation Act of 1996

Signed into law on May 14, 1996, the Welfare Innovation Act of 1996 (Senate Bill 778) (WIA 1996) anticipated the changes to welfare that the PRWORA would ultimately require. It is regarded as the most comprehensive welfare law the State had ever enacted. The WIA 1996 included numerous changes such as:

1. repealing the Aid to Families with Dependent Children program and replacing it with the Family Investment Program;
2. establishing temporary cash assistance grants as an entitlement;
3. providing child care to the extent resources permit for persons participating in a job search activity;
4. establishing a joint committee on welfare reform comprised of members from the Maryland Senate and House of Delegates; and
5. enabling local departments of social services to contract with charitable, private, and religious and institutions of postsecondary education to provide assistance to welfare recipients (Maryland General Assembly Department of Fiscal Services, 1996).

The WIA 1996 contained explicit language in its preamble that expressed a favorable opinion of religious organizations and approval for them to be considered as critical providers of services to the needy:

“Whereas, Volunteer, religious, and charitable organizations have historically provided aid to the needy, and these organizations represent a critical means of leveraging the reduced funding available for welfare programs;”

The law also included language that was very similar to the Charitable Choice language included in the PRWORA,

“In providing assistance under this subtitle, the [DHR] department may contract with charitable organizations, private organizations, religious organizations, and institutions of postsecondary education.”

and

“Except as provided in subsection. . . ., a religious organization may participate in the Family Investment Program on the same basis as any other nongovernmental entity (Welfare Innovation Act, 1996).”

In addition, the WIA 1996 stated that in the case where a welfare recipient’s benefits are terminated, the recipient may receive transitional assistance. The assistance would have to be paid to a third party on behalf of the recipient for up to 3 months. The law specified that the third parties were to be nonprofit organizations defined as a religious, charitable, or volunteer organization exempt from taxation under section 501 (C) of the Internal Revenue Code. The WIA 1996 also included a child specific benefit provision. The child specific benefit was authorized to be distributed through three methods including the third party payee method.

Demonstration Projects

The WIA 1996 also allowed for the creation of demonstration projects to support welfare recipients and their children. Religious organizations were allowed to compete for these grants on the same basis as any other non-governmental entity. However, no funds would be allowed to support religious instruction and worship and welfare recipients would not be required to accept assistance from a religious organization, if the individual believed that the service provided by the organization violated his or her individual religious beliefs and practices (Welfare Innovation Act, 1996).

Religious Organizations and the Third Party Payees Process

According to the Joint Committee on Welfare Reform Report of the 1996 Interim, one example of a church acting as a third party payees was the Concord Baptist Church

of Baltimore, which had 50–60 members act as payees. The church members only paid the bills of welfare recipients. The church members preferred this method. The church reported no liability concerns (Joint Committee on Welfare Reform, 1996, pp. 10-11).

Although Concord Baptist Church did not report any liability concerns in serving as third party providers, there is evidence that there were several religious and nonprofit organizations that expressed to government officials, a reluctance to participate in providing transitional assistance and child specific benefits. The Joint Committee on Welfare Reform Report of the 1996 Interim listed specific concerns and possible solutions:

- “Legal Issues: These include potential causes of action brought by recipients, need for liability insurance, rights of welfare recipients with respect to nonprofit decision-making, employment status of welfare recipients in the workplace, and allocation of risk between the state and nonprofits in demonstration projects. Possible solutions include assistance with the cost of liability insurance and possible coverage under the state’s sovereign immunity laws.
- Administrative Burden: Churches are expected to provide monthly reports on purchases and services. The procedure needs to be as streamlined and simplified as possible, with DHR available for training and technical assistance. Churches may be able to use welfare recipients in these administrative functions, providing a work opportunity for the recipient as well as easing the burden on the church. Some funds may be available for administrative costs.
- Linking Families to Professional Counseling: Families which receive full sanctions may be severely dysfunctional and require professional counseling. There should be clear understanding about the limited assistance volunteers may provide these families and circumstances in which professional help should be obtained.
- Exploration of Alternatives: There may not be enough nonprofit/religious organization volunteers to accommodate the need for child specific benefits and transitional assistance. Other alternatives, such as friends and family members as 3rd party payees or using vouchers, should be explored (Joint Committee of Welfare Reform, 1996, p. 16).”

Subsequently in response to some of these concerns, the Welfare Innovation Act of 1997:

1) added to the Maryland Tort Claims Act protections for nonprofit organizations that act as third party payees; 2) authorized local departments of social services to pay an administrative fee to third party payees; and 3) expanded the types of entities which could serve as third party payees (Welfare Innovation Act, 1997).

Child Specific Benefit Discontinued

In December 2002, the Secretary of Human Resources suspended the child specific benefit for several reasons. First, it was determined that the provision had no impact on the number of children born to TCA recipients. Second, the recruitment of third-party payees was very unsuccessful. Third, associated costs were high for participating organizations. In 2008, the provision was officially repealed by the Maryland General Assembly and the Governor (Maryland General Assembly Department of Legislative Services, 2008).

Welfare Innovation Act of 1997

The Welfare Innovation Act of 1997 (Senate Bill 499) (WIA 1997) added the federal requirements mandated by the PRWORA that were not included in the Welfare Innovation Act of 1996 and added several state initiated requirements including drug testing for welfare recipients. Legislators envisioned that religious organizations would play a key role in the fulfillment of this requirement. If a welfare recipient were found to be addicted, she could have her benefits given to a third party payee to administer. It was envisioned that religious organizations would help take on this responsibility along with a new expended list of other third party payees. To defray administrative costs associated with being a third party payee, the WIA 1997 allowed the payment of an administrative

fee for the first time (Welfare Innovation Act, 1997 & Maryland Senate Finance Committee, 1997).

Welfare Innovation Acts of 1998, 2000, and 2001

Following the passage of the WIA 1997, the General Assembly made incremental changes to the state's welfare system through the enactment of the Welfare Innovation Acts of 1998, 2000, and 2001 (Winston, 2002, p. 136). The following table provides the bill synopsis of each of the three Welfare Innovation Acts:

Table 1: Maryland's Welfare Innovation Acts 1998, 2000 and 2001	
Act	Corresponding Legislative Bill Synopsis
Welfare Innovation Act of 1998	SB 686 Bill Synopsis: Codifying a provision of law related to the use of certain savings involving the Family Investment Program; requiring the Secretary of Human Resources to give priority to and use a certain percentage of funds allocated to demonstration projects for the funding of certain proposals; requiring the Secretary to establish a Job Skills Enhancement Pilot Program; establishing a certain exemption for specified nonprofit entities, the Department of Human Resources, and the local departments of social services; etc.
Welfare Innovation Act of 2000	HB 1160 Bill Synopsis: Authorizing the Secretary of Human Resources to establish as many as six Family Investment Program demonstration sites; altering the model hiring agreement used by the Secretary of Human Resources under the Program to allow priority hiring to positions that are not entry-level positions; requiring the Secretary and local directors of social services to work with local governments in recruiting and hiring Program recipients for local government positions; etc.
Welfare Innovation Act of 2001	SB 541 Bill Synopsis: Requiring the Maryland Higher Education Commission, in cooperation with the Department of Human Resources, to coordinate efforts among institutions of higher education to encourage and identify student volunteers to help provide mentoring to Family Investment Program (FIP) recipients; specifying when temporary cash assistance may not be paid; increasing to 36 months the time between when an individual was a former FIP recipient and when the individual may participate in the Job Skills Enhancement Program; etc.

Source: Maryland Legislative Services Prior Session Information, 1996-2008.

The Glendening Administration's Religious Organizations Outreach Activities

In addition, to participating in the passage of major welfare reform legislation the Glendening Administration conducted various religious organizations' outreach activities. During the Glendening's administration, the Maryland Department of Human Resources organized the Faith Community/DHR Partnership Council. The Faith Community/DHR Partnership Council offered an information clearinghouse and referral system, housed and staffed by the Department of Human Resources, that enabled religious organizations' leaders: 1) to connect needy families with services and 2) to connect to a departmental ombudsman who could navigate around government roadblocks that were preventing needy persons from accessing benefits (Carlson-Thies, 2000b).

In the final years of his second term, Governor Glendening, through the Cabinet Council on Criminal and Juvenile Justice, under the leadership of then Lt. Governor Kathleen Kennedy Townsend, organized the Faith Partnership Initiative (FPI). The mission of the FPI was to "build on Maryland's tradition of partnership with the faith-based community to implement effective projects that promote community well being and quality of life." The FPI consisted of three components: 1) training and technical assistance; 2) an interagency work group that consisted of Cabinet Council agencies representatives that reviewed state practices; and 3) the Faith Partnership Council that engaged religious leaders, in order to obtain their feedback and ideas on partnering with government, and to learn their concerns regarding working with government (Governor's Office of Crime Control & Prevention, 2002, p. 5).

Key Legislators in Maryland Welfare Efforts

Critical to the inclusion of religious and charitable organizations as third party providers in the WIA 1996 was Maryland Senator Martin G. Madden (R-Howard and Prince George's Counties) (Winston, 2002, p. 123). Senator Madden chaired the Welfare Committee of the Senate Finance Committee and remained the key supporter of the inclusion of religious organizations, as providers of services and support to welfare recipients, throughout his tenure in the Maryland Senate (Madden, 2009 & Maryland Senate Finance Committee Welfare Reform Subcommittee, 1995). For a number of years, Senator Madden and Maryland Delegate Sandy Rosenberg (D-Baltimore City) co-chaired the Joint Committee on Welfare Reform, which met annually during the interim of the General Assembly (Madden, 2009). Established by the WIA 1996, the Joint Committee on Welfare Reform was responsible for providing oversight of and study of the provision of the Family Investment Program and its related benefits and services.

According to Delegate Rosenberg,

“we [Madden and Rosenberg] were the incubators of ideas, the two of us, from either our own thoughts or things we would read about that were going on in other state and so on. The Joint Committee was a forum to have hearings on some of these ideas and put them in a bill that would be heard by the General Assembly (Rosenberg, 2008).”

According to Senator Madden, his interest in the usage of religious organizations was not due to the Charitable Choice provision, but due to the recognition that government did not have enough resources to successfully transition the thousands of Maryland welfare recipients from welfare into employment as required by law (Madden, 2009). In his opinion, community-based volunteer, charitable and religious organizations were needed. In addition, he also recognized that local flexibility was needed by the

local communities and departments of social services to best meet the needs of welfare recipients and their families (Maryland Senate Finance Committee Welfare Reform Subcommittee, 1995).

Local Flexibility and Autonomy

The WIA 1996 included explicit language that stated that “Local departments of social services require flexibility and autonomy to craft local solutions to their needs (Welfare Innovation Act, 1996).” The usage of increased flexibility and autonomy is evident by looking at the various models of service delivery that each local department of social services implemented to move welfare recipients into the work opportunities required by PRWORA and the WIA 1996. Each local department of social services established a work opportunities program which varied in its contents, but were developed to specifically meet each local jurisdiction's needs. According to a University of Baltimore Schaefer Center for Public Policy Study, work opportunities programs were categorized into three different models:

1. Locally based with Vendor Support: local DSS staff persons provide key elements of the program while vendors provide support services and training/skills enhancement opportunities;
2. Locally based: local DSS staff uses no vendors and local DSS staff provides services supported by cooperative agreements; and
3. Vendor Based with Local Assessment: vendor staff provides services while local DSS staff provides domestic violence and substance abuse assessments (Schaefer Center, 2001, pp. 37-38).

The following table displays the service delivery model used by each local Department of Social Services.

Table 2: Work Opportunities Service Delivery Models	
Jurisdiction	Model for Service Provision
Allegany County	Locally Based/Vendor Support
Anne Arundel County	Locally Based/Vendor Support
Baltimore County	Locally Based/Vendor Support
Calvert County	Locally Based/Vendor Support
Caroline County	Vendor Based/Local Assessment
Carroll County	Vendor Based/Local Assessment
Cecil County	Vendor Based/Local Assessment
Charles County	Locally Based/Vendor Support
Dorchester County	Locally Based/Vendor Support
Frederick County	Locally Based/Vendor Support
Garrett County	Locally Based/Vendor Support
Harford County	Vendor Based/Local Assessment
Howard County	Locally Based/Vendor Support
Kent County	Locally Based
Montgomery County	Vendor Based/Local Assessment
Prince George's County	Vendor Based/Local Assessment
Queen Anne's County	Locally Based/Vender Support
Saint Mary's County	Locally Based/Vendor Support
Somerset County	Locally Based/Vendor Support
Talbot County	Locally Based/Vendor Support
Washington County	Locally Based/Vendor Support
Wicomico County	Locally Based/Vendor Support
Worcester County	Locally Based/Vendor Support
Baltimore City	Vendor Based/Local Assessment

Source: Family Investment Program Implementation Analysis, May 1, 2001, Schaefer Center for Public Policy, University of Baltimore, p. 39.

According to Catherine Born, the leading researcher of welfare reform in Maryland, the flexibility and local autonomy allowed by welfare reform resulted in Maryland transitioning thousands of welfare recipients off of its welfare role (Otto, 2006). DHR data reveal that in January 1995, Maryland had 227,887 individuals receiving welfare benefits, while in January 2008 the number had been reduced to 51,989 (Donald, 2008).

State Level Guidance

There was little guidance provided by DHR on Charitable Choice or the usage of religious organizations during 1996 to 2006 (Lockett, 2008 & Martin, 2008). According to Rich Larson, generally DHR staff persons look to a select number of sources of agency guidance on implementing agency programs: Statutes, Code of Maryland Regulations (COMAR), Circular Letters, Policy Memoranda, Questions & Answers, and Training Sessions. Out of all the sources of agency guidance, Larson could only recall one—a FIA Information Memo issued concerning religious organizations (Larson, 2008). The Memorandum, issued in August 2001 was entitled “Customer’s Right to Refuse to Work with a Religious Organization.” The memo’s summary stated,

“Some local departments have contracted with churches and other faith-based organizations to provide services or serve as third party payees for our customers. Federal regulations as well as the Code of Maryland Regulations (COMAR) prohibit discriminating against any individual when administering our programs. COMAR states: An individual may not be required to accept assistance from a religious organization if acceptance would violate the individual’s bona fide religious beliefs and practices (Maryland Department of Human Resources, 2001).”

One other form of guidance was provided earlier in May 1996 through a Maryland Attorney General letter regarding Senate Bill 778. In the letter addressed to Governor Glendening, the Maryland Attorney General stated that his office had reviewed and approved Senate Bill 778 for “constitutionality and legal sufficiency” and had concluded that the bill did not violate the Establishment Clause of the First Amendment and that DHR could contract with religious organizations as long as the organizations did not use funds to provide religious instruction and individuals were not forced to accept acceptance from a religious organization, if acceptance violated the individuals’ beliefs or practices (Curran, 1996).

The Robert L. Ehrlich Era (2003 to 2007)

Following the Glendening Administration, Governor Robert L. Ehrlich Jr. (R), served as governor from 2003 to 2007. Governor Ehrlich is considered to be the first Maryland official to openly support Charitable Choice as it was intended by its Congressional originators (Rosenberg, 2008). In his first address before the General Assembly, Governor Ehrlich speaking on his desire to address the need for substance abuse treatment programs stated,

“We will encourage faith organizations of every denomination to offer treatment programs.

Faith-based initiatives can achieve on a tiny budget results that the federal government and state of Maryland have been unable to duplicate despite spending billions of dollars.

Lieutenant Governor Steele will lead this effort. It will involve every subdivision in our State-it is a priority for our administration (Ehrlich, 2003b).”

In January 2003, Lieutenant Governor Steele appointed the Rev. John A. Heath to the position of Senior Advisor to the Office of the Lieutenant Governor. Heath was a former staffer of Congressman Elijah Cummings and Maryland Senate President Thomas “Mike” Miller. Heath’s responsibilities included providing advice on urban issues, higher education and faith-based initiatives (Ehrlich, 2003a). During the 2003 and 2004 legislative sessions, Governor Ehrlich attempted to establish an Office of Faith-Based and Community Initiatives, modeled after President George W. Bush’s Office of Faith-Based and Community Initiatives, but immediately ran into trouble with the State Legislature. The State Legislature inserted into each of the four state’s budget bills of Governor Ehrlich’s term included the following language,

“AND BE IT FURTHER ENACTED, That no funds in this budget may be expended pursuant to, or in any furtherance of, any policy or program the purpose of which is exclusively or primarily to promote or to facilitate the participation of faith-based organizations in State programs providing health, social or educational services, unless that policy or program is specifically authorized by an Act of the....General Assembly (Maryland General Assembly, 2003, Maryland General Assembly, 2004, Maryland General Assembly, 2005, Maryland General Assembly, 2006).”

Democratic legislative leaders provided three reasons for their objection to the establishment of an Office of Faith-Based and Community Initiatives. First, the legislators questioned the need for the agency since the State makes available opportunities for funding to the nonsectarian nonprofits of religious organizations and other community-based organizations through the Maryland State Bond Program, which provides funding for capital projects. Second, legislators argued that the office’s scope needed clarification. Third, the creation of the office should go through the regular legislative process of being submitted as an individual bill, not submitted only as a part of the state budget (Penn, 2004, p. 1B). Governor Ehrlich responded to the legislature’s rebuke by issuing an Executive Order to establishing Governor’s Office of Community Initiatives (GOCI). The GOCI’s responsibilities included:

1. Coordinating community and volunteer service activities throughout Maryland;
2. Developing the Governor’s policy agenda for improving community programs;
3. Reviewing legislation to ensure that community organizations are given equal access under the law in the competitive process for public and private funding; and;
4. Conducting a review of State programs in cooperation with State departments and agencies to identify legislative and regulatory barriers that impede the delivery of community-based social services to Marylanders in need. (Ehrlich, 2004b).

The GOCI was continued by the succeeding governor, Martin O'Malley (D). A 2008 Joint Chairman's Report issued by the [Maryland] House Appropriations and [Maryland] Senate Budget and Taxation Committees reported that since its founding in 2004, the GOCI has worked with more 450 faith-based and community organizations and agencies and whose work was valued at \$2.8 million. The office had also held workshops throughout Maryland to train community and faith-based organizations on how to obtain funding and resources from state and federal sources (Farris, 2008).

Budget Deficit Reduction Act of 2005

Since 2001, there have been no new Welfare Innovation Acts enacted in Maryland. However, Maryland like other states eagerly awaited the reauthorization of the federal welfare law, which was finally reauthorized in 2005 through the Deficit Reduction Act (DRA) and signed into law in 2006. DRA required modest changes to the TANF programs including:

1. The number of adults who must participate in work activities was increased;
2. The way states were rewarded for case load reductions were changed;
3. The activities that states could count as meeting federal work requirements were defined; and
4. States were to be fined penalties for not complying with federal work verification regulations (Maryland Department of Human Resources, 2006).

DRA did not make any reference to Charitable Choice or contained any related language.

The Role of Contract Managers in Implementing Charitable Choice

Baltimore City Department of Social Services and its Faith-Based Contractors

There are several reasons why BCDSS decided to contract out for services. According to Gary Lockett, the former BCDSS contract manager responsible for

overseeing contractors during the late 1990s: 1) BCDSS did not have the internal capacity to provide the type of welfare-to-work job training and placement services required to meet federal work requirements; 2) Baltimore had the largest caseload of welfare recipients and thus had the most welfare recipients to place into qualified work opportunities; and 3) the local department wanted to use its flexibility allowed by PRWORA and the WIA 1996 to contract out like the other states that BCDSS staff had discovered through research (Lockett, 2008). Initially, BCDSS was provided \$3 million to provide job training and placement services that they wanted to use to award grants. However, they were informed that they had to undergo the competitive bidding process to award funding to non-governmental entities (Thompson, 2008). Subsequently, BCDSS issued the first two of five Requests for Proposals for welfare-to-work services that it would issue from 1997 to 2005. The awardees entered into pay-for-performance contracts. The following table provides information of the Requests for Proposals.

Table 3: Baltimore City Department of Social Services Request for Proposals 1997-2005	
RFP Title, Agency Control Number, Bid Due Date	Results
Direct Job Placement Services, BCDSS/IMA-97/015-S, April 25, 1997	Seven awards; one faith-based organization awarded-Caroline Center.
Intensive Job Services, BCDSS/IMA-97/016-S, April 25, 1997	Two awards; one faith-based organization awarded-Payne Memorial Outreach.
Intensive Family Support Services for Job Readiness, BCDSS/FIA-99-028-S, May 21, 1999	Government-to-Government Agency award.
Coordinated/Supportive Work Preparation and Placement Services, BCDSS/FIA-99-026-S, May 21, 1999	Three awards; no faith-based organizations awarded.
Coordinated/Supportive Work Preparation and Placement Services, BCDSS/FIA-06-015-S, June 27, 2005	Three awards; no faith-based organizations awarded.

Source: State of Maryland Board of Public Works Complete Summary Archive Files June 18, 1997; State of Maryland Board of Public Works-After Meeting Agenda Summary, April 5, 2000; Letter from DHR Secretary Brenda Donald, February 12, 2009.

Faith-Based Contractors

As noted in the preceding table, there were three faith-based organizations that were awarded pay-for-performance contracts: the Caroline Center, Payne Memorial Outreach, and Catholic Charities of the Archdiocese of Baltimore. According to Jonathan Thompson, BCDSS Program Administrator, these organizations were judged to be capable of meeting contractual requirements and serving welfare recipients based on what BCDSS requested (Thompson, 2008).

Table 4: BCDSS Religious Organizations Vendors 1997 to 1999			
Vendor	Religious Affiliation	RFP Category	Services Provided
The Caroline Center	School Sisters of Notre Dame	Direct Job Placement	Job Readiness/Job Search; Job Placement/Post Placement Follow-up; Internship Work Experience; Remedial and Vocational Education Opportunities
Payne Memorial Outreach	Payne Memorial African Methodist Episcopal Church	Intensive Job Services	Job Readiness/Job Search/Job Placement/Follow-up; Training in Geriatric Nursing, Office Skills; GED Courses, Case management in life skills, parenting, barrier removal
Catholic Charities	The Archdiocese of Baltimore	Agency-to-Agency	Job Readiness/Job Search; Work Experience placement in the community; Ninety (90) hours of classroom instruction in Early Childhood Education; Job Placement opportunities

Source: Baltimore City Department of Social Services Baltimore City Family Investment Program Service Providers FY 1997-98-99, Master List-Standard Operating Procedures Summary, October 1997.

According to the three representatives of the three faith-based organizations awarded contracts interviewed for this study, none of their organizations pursued a contract because of a knowledge of Charitable Choice. The leadership of their respective organizations pursued a contract for various reasons:

1. Payne Memorial Outreach sought a contract to expand and increase its delivery of services (Harper, 2008).
2. Catholic Charities sought a contract to serve the welfare recipient parents whose children participated in the Head Start programs that Catholic Charities managed on behalf of the Baltimore City Housing Authority (Thomas-Christon, 2008).
3. The Caroline Center sought a contract to provide job training in East Baltimore because a needs assessment it had conducted revealed that jobs and job training were identified as the greatest needs (McLaughlin, 2008).

All three of the faith-based organizations maintained their contracts until the contracts ended in 2000. Payne Memorial and the Caroline Center submitted proposals for the second set of RFPs issued in 1999 and were unsuccessful in being awarded (Harper, 2008, McLaughlin 2008, & Thomas-Christon, 2008). However, the three entities would go on to secure other government funding for welfare-to-work training and for other programs or services they offered, or agreements to provide services without being paid.

Following the conclusion of its Direct Job Placement contract with BCDSS, the Caroline Center entered into a Memorandum of Understanding (MOU) with BCDSS to continue welfare-to-work training for welfare recipients free of charge from September 2000 to July 2002. During this time period, the Caroline Center enrolled 142 welfare recipients of which 92 completed training and were placed into employment. BCDSS only provided bus passes and childcare vouchers. Eventually, BCDSS informed the Center that it could no longer honor the agreement because the recipients had to be enrolled in work related activities, in order to continue receiving their TANF benefits (McLaughlin, 2002).

There were two major challenges encountered during the contracting process: 1) the utilization of the Work Opportunities Management Information System (WOMIS) and 2) the securing of payments of invoices. WOMIS is the online database used by

DHR to track the work participation activities of each person receiving welfare in Maryland. Contractor staff found it difficult to understand which WOMIS code to use for the variety of activities that an individual were engaged. Invoicing was complicated because BCDSS relied upon the data entered into WOMIS to confirm welfare recipients work activity participation status and hardcopy documentation and verification of job placement. As a result, contractors were only paid for items that could be verified in WOMIS or with other acceptable verification, while items in dispute had to be resolved before payment would be approved and issued. Early on in the contracting process, BCDSS had to provide ongoing technical assistance and training on WOMIS and invoicing (Freeman, 2008).

The Contracting Process

According to BCDSS contracting officials on staff during the first two Requests for Proposals, they did not do anything unique to encourage religious organizations to compete for contracts or to promote the Charitable Choice provision (Lockett 2008 & Thompson, 2008). BCDSS leadership and staff were concerned primarily with fulfilling the requirements of PRWORA and WIA 1996. They were particularly concerned with meeting work participation rates' goals established by PRWORA (Thompson, 2008).

At the beginning of the contracting process, BCDSS staff held a focus group of welfare recipients and reviewed national studies on welfare recipients' needs to understand what types of welfare-to-work programs and services would be needed to meet PRWORA goals. The information gained from these sources helped to craft subsequent RFPs (Thompson, 2008). Once the decision was made to contract out, Lockett and BCDSS staff worked together with Maryland Department of Management &

Budget staff, who had experience in developing RFPs, to develop the first BCDSS RFPs. The RFPs were open to both profit and nonprofit entities. BCDSS offered one pre-bid conference. At least 15 entities submitted proposals. A proposal evaluation team with individuals from BCDSS, DHR, the Maryland Department of Labor, Licensing, and Regulations, and the Department of Business and Economic Development, and the Baltimore's Mayor's Office reviewed, scored, and ranked the proposals according to the RFP criteria (Lockett, 2008).

The evaluation team then prepared a committee report that included recommendations. The report was submitted to the Director of the BCDSS Family Investment Bureau, who submitted it to the Director of BCDSS. Following this, information was forwarded to DHR and the Maryland Department of Budget & Management. Afterwards, the information was sent to the Maryland Board of Public Works for approval. Upon approval, standard contracts were negotiated with recommended offerors. All of these steps are regarded as the standard contract process required by Maryland law and regulations (Martin, 2008).

Upon the execution of the contracts, BCDSS contract managers, who were actually called project managers, began contract monitoring. Gary Lockett, then the BCDSS Contract Administrator, had to hire additional staff to assist with the contract monitoring. One of the staff members, Cindy Theede Freeman, was responsible for developing the contract monitoring policies and procedures and interfacing with local department of social services satellite sites staff (Freeman, 2008).

Each contractor was assigned a contract manager, who was responsible for monitoring the performance of the contractors. Contract managers performed quarterly

site visits. During each site visit, contract managers reviewed welfare recipient customer files for documentation of the kinds of services received, communications with BCDSS caseworkers, and employment placement documentation (Freeman, 2008). The primary tool used to monitor contractor activity was WOMIS. Contractors were required to enter data on each welfare recipient they were assigned. BCDSS contract managers produced monthly reports and provided quarterly reports to DHR (Lockett, 2008).

The entering of data into WOMIS was critical to contractors getting paid because the contract managers would match WOMIS reports to data submitted on invoices submitted by contractors. Contractors were paid based upon the number of welfare recipients who completed four different payout points,

- 1) participation in contractor's program for one month;
- 2) welfare recipient placed into unsubsidized employment;
- 3) welfare recipient employed at the same or other employer for at least 13 weeks;
- 4) welfare recipient employed at the same or other employer for at least 26 weeks (Baltimore City Department of Social Services, 1997b).

Entering data into WOMIS and completing payments invoices were two of the greatest challenges that contractors experienced. As a result, technical assistance was provided through quarterly contractors meetings and trainings provided by BCDSS staff and contract managers working individually with the contractors they managed. Fortunately, it was decided that if discrepancies or errors were discovered in WOMIS and invoices, BCDSS paid for everything except the items that needed clarification or corrections (Lockett, 2008). Correct data entry was of the greatest concerns for DHR because it used WOMIS to document work participation rates, work placement rates, and how many

persons left the welfare role. The documentation of these items was required by PRWORA and the WIA 1996. DHR could be penalized if it had not met certain work participation rates and verification standards. Furthermore, legislative auditors annually reviewed WOMIS data and welfare recipients case records for accuracy (Freeman, 2008).

From 1997 to 2000, BCDSS managed 19 contracts (Baltimore City Department of Social Services, 1998). Out of the 19 contracts, one contract was terminated because of convenience. The termination was sought and agreed to because the contractor was not confident that BCDSS would be able to provide adequate welfare recipient referrals in time for the contractor to generate enough invoice revenue to continue operating (Freeman, 2008). According to Maryland Board of Public Works information, at least three of the 19 contractors were awarded pay-for-performance contracts through the second set of RFPs issued in 1999: The Chimes, Inc., Advance Resource Management Systems, Inc., and America Works of Maryland, Inc. (State of Maryland Board of Public Works, 2000).

In 2006, Catholic Charities was approached by BCDSS to offer welfare-to-work training to a group of pregnant welfare recipients on a cost reimbursement basis. Even though the women were exempt because of their pregnancies, they were still counted in BCDSS' welfare case load. Though BCDSS had reduced the number of welfare recipients on its roles, it still was in danger of losing significant funding because of low work participation rates. Catholic Charities continues to maintain the contract (Thomas-Christon, 2008).

Summary

Welfare reform in Maryland began before the passage of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA). In the early 1990s to mid-1990s, Maryland enacted three welfare reform initiatives. The first two, the Primary Prevention Initiative and the Welfare Reform Pilot Program and Child Support Reform Act of 1995, did not contain any language promoting the usage of religious organizations in the implementation of welfare reform. The second, the Welfare Innovation Act of 1996, contained language that promoted the usage of religious organizations to meet the needs of welfare recipients; however the inclusion of the language was not in response to the upcoming Charitable Choice provision of the PRWORA. Following the enactment of the WIA 1996, Maryland enacted four more Welfare Innovation Acts. Some of the acts mentioned included Charitable Choice related language.

From the early 1990s to 2006, there were a limited number of government officials who advocated for the inclusion of religious organizations as contractual service providers to assist in the implementation of welfare reform of Maryland. However, these individuals did not do so as a result of a desire to implement the Charitable Choice provision as intended by its congressional originators.

In Maryland, there were government agencies entering into contractual agreement with religious organizations. Two examples include the Anne Arundel County and Baltimore City Departments of Social Services. However, it is known that the Baltimore City Department of Social Services did not enter agreements in order to implement Charitable Choice.

As time passed and changes in gubernatorial administrations occurred, Maryland state level government officials' interest in Charitable Choice increased and specific actions were undertaken to implement the Charitable Choice provision as intended by its congressional originators. Supporters of Charitable Choice did encounter opposition. Nevertheless, there is now the Governor's Office of Community Initiatives which has as one of its goals to support greater cooperation and partnerships among government and the religious community.

Chapter V – Conclusions

Research Question 1: How was the Charitable Choice Policy implemented in Maryland?

There are several conclusions that can be drawn from the findings of this research study regarding the implementation of Charitable Choice in Maryland. First, Maryland implemented welfare reform before the PRWORA became law. In 1991, Maryland initiated the Primary Prevention Initiative and the Disability Assistance and Loan Program (Norris & Bembry, 1995, p. 149). In 1995, Maryland enacted the Welfare Reform Pilot Program and Child Support Reform Act (Winston, 2002, pp. 118-119).

Second, in anticipation of the passage of the PRWORA, Maryland passed the Welfare Innovation Act of 1996 (Winston, 2002, pp. 120). The WIA 1996 included language that allowed the Maryland Department of Human Resources (DHR), through its local departments of social services to contract with religious organizations on the same basis as non-religious organizations to implement welfare reform (Welfare Innovation Act, 1996). The pro-religious organization language was not included because of a desire to implement the Charitable Choice provision. The pro-religious organization language was included because government officials recognized that Maryland did not have enough resources to successfully transition its thousands of welfare recipients from welfare into employment (Madden, 2009).

Third, the WIA 1996 granted local departments of social services flexibility and autonomy to develop their own welfare-to-work strategies. Therefore, local departments could chose to provide services in-house or to contract with vendors to assist welfare recipients with obtaining employment and addressing their barriers to employment

(Welfare Innovation Act, 1996). Subsequently, there were several local departments of social services that chose to contract with vendors (Schaefer Center, 2001).

The Baltimore City Department of Social Services (BCDSS) was one of the local departments that chose to contract with 19 vendors during the late 1990s. Three of the vendors were faith-based organizations. The three faith-based organizations were selected because they were judged as being capable of meeting contractual requirements and serving welfare recipients based on what BCDSS requested, and not because the organizations were faith-based. According to BCDSS contracting officials, they did not do anything unique to encourage religious organizations to compete for contracts or to promote the Charitable Choice provision (Lockett, 2008 & Thompson, 2008).

Fourth, during the early years of the implementation of the PRWORA in Maryland, Charitable Choice was not a policy that received a significant amount of attention from state agencies, the State Legislature or the Governor. It was not until 2003, that interest in the Charitable Choice policy, as envisioned by its congressional supporters, increased. This increased interest was due to the efforts of Governor Robert L. Ehrlich (R) to establish Maryland version's of President George W. Bush's Office of Faith-Based and Community Initiatives (Ehrlich, 2003b).

Governor Ehrlich faced significant challenges from the State Legislature including their inclusion of language in the state's budget laws, stating that no state funds could be used for "any policy or program whose purpose is exclusively or primarily to promote or to facilitate the participation of faith-based organizations in State programs providing health, social or educational services (Maryland General Assembly, 2003; Maryland General Assembly, 2004; Maryland General Assembly, 2005; Maryland

General Assembly, 2006).” As a result, Governor Ehrlich was delayed nearly two years in implementing his strategy to fulfill the intent of the Charitable Choice provision.

This experience corresponds with what Bardach described as the Tenacity game. Tenacity is a game played by bureaucrats, legislators, professional associations, interest groups, and community organizations. The Tenacity game requires the ability and the will to hinder the completion or progress of a program until one’s terms are satisfied. It is not usually an entity’s intention to stop or delay, but the demise of the program or lengthy delays can be the consequence. (Bardach, 1977, p. 148). In spite of having his initiative delayed, Governor Ehrlich managed to outmaneuver the Legislature when by Executive Order he created his Governor’s Office of Community Initiatives (Ehrlich, 2004a). Governor Ehrlich’s actions corresponded to the actions of what Bardach describes as a ‘fixer.’

Fifth, Maryland had a history of funding and working with religious organizations that provide social services before the passage of the Charitable Choice provision. For example, religious groups had obtained funds through the state’s Bond Bill program (Penn, 2004) and the Anne Arundel County Department of Social Services operated the Community Directed Assistance Program which used religious congregations, without compensation, to work with welfare recipients to become self-sufficient (Yates, 1998).

These conclusions are supported by the results of the Charitable Choice Implementation propositions included in this research study. The results are presented below in table and narrative form. Overall, it can be concluded that five of the 11 policy implementation propositions were supported by this study’s findings.

Table 5: Policy Implementation Propositions Supported		
Propositions	# of interviewees supporting propositions	# of documents supporting propositions
A. State Level Implementation		
A.1. Charitable Choice policy is assigned to a specific state agency for policy implementation oversight.	1	2
A.2. State Agency provides clear guidance and instruction on how to implement Charitable Choice policy and its requirements.	0	0
A.3. State Agency provides resources (i.e., technical assistance and staffing) to assist local agency staff with implementing policy at the local level.	0	0
A.4. State Agency facilitates the necessary adjustments to agency policies, or state regulations or codes necessary to implement Charitable Choice policy.	0	1
B. Local Level Implementation		
B.1. Charitable Choice policy is assigned to a specific department in local agency for policy implementation oversight.	1	1
B.2. Local agency develops strategy on how to implement Charitable Choice policy and its requirements.	0	0
B.3. Local agency secures necessary technical assistance and staffing to implement policy at the local level.	0	0
B.4. Local agency staff makes adjustments to local agency policies and practices in order to implement Charitable Choice policy.	0	0
C. Interactions with Faith-Based Contractors		
C.1. Faith-Based contractors require extensive technical assistance to fulfill its contract requirements	7	1
C.2. Faith-Based contractors provide feedback on adjustments to local agency policies and practices.	1	1
C.3. Faith-Based contractors' performance is equal to previous non-faith-based providers.	0	0

A. State Level Implementation

A.1. Charitable Choice policy is assigned to a specific state agency for policy implementation oversight.

The PRWORA which contained the Charitable Choice provision was assigned to be implemented by DHR and subsequently its 24 local departments of social services (Welfare Innovation Act, 1996).

A.2. State Agency provides clear guidance and instruction on how to implement Charitable Choice policy and its requirements.

DHR did not provide clear guidance and instruction on how to implement the Charitable Choice provision. There was only one DHR Family Investment Administration Memorandum issued in August 2001 that stated that welfare recipients had the right to refuse to work with a religious organization. However, the memorandum was not issued in response to Charitable Choice (Larson, 2006).

A.3. State Agency provides resources (i.e., technical assistance and staffing) to assist local agency staff with implementing policy at the local level.

DHR did not provide resources to assist local departments of social services with implementing welfare reform and the Charitable Choice policy. Local department of social services staff personally performed research to obtain information from other state welfare agencies and through special interest groups to understand welfare reform and about different strategies to implement it (Lockett, 2008).

A.4. State Agency facilitates the necessary adjustments to agency policies, or state regulations or codes necessary to implement Charitable Choice policy.

The WIA 1996 contained language that stated that DHR could contract with religious organizations; however it was not done to implement Charitable Choice (Madden, 2009).

B. Local Level Implementation

B.1. Charitable Choice policy is assigned to a specific department in local agency for policy implementation oversight.

The PRWORA which contained the Charitable Choice provision was assigned to be implemented by the Maryland Department of Human Resources and subsequently its 24 local departments of social services (Welfare Innovation Act, 1996 & Lockett, 2008).

B.2. Local agency develops strategy on how to implement Charitable Choice policy and its requirements.

The BCDSS did not develop strategies on how to implement Charitable Choice and its requirements. According to BCDSS officials, they did not do anything unique to encourage religious organizations to compete for contracts or to promote the Charitable Choice provision (Lockett, 2008 & Thompson, 2008).

B.3. Local agency secures necessary technical assistance and staffing to implement policy at the local level.

The BCDSS did not seek special technical assistance or additional staff to implement the Charitable Choice policy. However, BCDSS staff did seek technical assistance to develop Request for Proposals to solicit welfare-to-work vendors. BCDSS only hired additional staff to manage its welfare-to-work contracts (Lockett, 2008 & Freeman, 2008).

B.4. Local agency staff makes adjustments to local agency policies and practices in order to implement Charitable Choice policy.

The BCDSS did not have to have make adjustments to local agency policies and practices in order to implement Charitable Choice policy because the WIA 1996 contained language that allowed DHR to contract with religious organizations (Welfare Innovation Act, 1996).

C. Interactions with Faith-Based Contractors

C.1. Faith-Based contractors require extensive technical assistance to fulfill its contract requirements

BCDSS contract managers provided training on how to use the Work Opportunities Management Information System (WOMIS) and on how to complete payment invoices to faith-based contractors (Lockett, 2008, Freeman, 2008, Thompson, 2008, Martin, 2008, Harper, 2008, McLaughlin, 2008, Thomas-Christon, 2008).

C.2. Faith-Based contractors provide feedback on adjustments to local agency policies and practices.

Faith-based contractors attended BCDSS Family Investment Bureau Quarterly Vendors' Meetings where they provided feedback on adjustments made by BCDSS (Freeman, 2008).

C.3. Faith-Based contractors' performance is equal to previous non-faith-based providers.

This could not be determined by the interviews conducted or the documentation secured.

How Maryland Compares To Other States

It can be concluded that the implementation of Charitable Choice in Maryland was similar to what occurred in other states. This can be seen by comparing the major findings of this research study to findings of the Roundtable on Religion and Social Welfare Policy 50-state studies (Ragan, Montiel, & Wright, 2003 & Ragan & Wright, 2005). The following table presents the comparisons.

Table 6: How Maryland Compares To Other States	
Roundtable on Religion and Social Welfare Policies' Findings	Research Project Findings
1. In some states faith-based organizations have long been accepted as government partners.	Faith-based organizations have participated in the Maryland Bond Bill program for a number of years (Penn, 2004).
2. Faith-based organizations are eligible to compete for contracts and grants to the same extent as secular providers.	This was a common theme among several of this research project's interviewees (Lockett, 2008, Thompson, 2008). The Welfare Innovation Acts of 1996 and 1997 stated that local department of social services could contract with religious organizations and secular providers (Welfare Innovation Acts, 1996 and 1997).
3. Faith-based organizations are treated no differently than secular service providers in terms of monitoring and auditing.	This was a common theme among several of this research project's interviewees (Lockett, 2008, Thompson, 2008).
4. State officials regarded the skills and capacity of a service provider, as more important than an entity's religious or secular nature.	This was a common theme among several of this research project's interviewees (Lockett, 2008, Thompson, 2008).
5. Some states conducted training to assist faith-based organizations in competing for grants and contracts.	The Faith Partnership Initiative (FPI), during Governor Glendening's administration, and the Governor's Office of Community Initiatives, during Governor Ehrlich's administration, provided technical assistance training to faith-based organizations (Carlson-Thies, 2000b & Farris, 2008).
6. State's executive branch designated an individual or an office as a liaison to the community.	Governor Ehrlich created the Governor's Office of Community Initiatives by executive order in 2004 to facilitate faith-based organizations in obtaining contracts with government (Ehrlich, 2004a).

Research Question 2: What are the roles of public sector managers in the implementation of the Charitable Choice provision in Maryland?

There are several conclusions that can be drawn from the findings of this research study regarding the roles of public sector managers in the implementation of the Charitable Choice provision in Maryland.

First, there were faith-based organizations that contracted with government to provide welfare-to-work services in Maryland during the ten years reviewed by this research study. BCDSS contracted with three faith-based organizations during 1997 to 2000 (State of Maryland Board of Public Works, 1997). During this period, BCDSS contract managers performed actions that corresponded to the specific actions included in the Integration, Operation, and Separation components of Cooper's Vertical portion of his model:

1. Integration: BCDSS staff held a focus group of welfare recipients and reviewed national studies on welfare recipients' needs to understand what types of welfare-to-work programs and services would be needed to meet PRWORA goals. BCDSS staff worked with Maryland Department of Management & Budget staff to develop RFPs. BCDSS offered one pre-bid conference. BCDSS reviewed proposals. A proposal evaluation team reviewed, scored, and ranked the proposals according to the RFP criteria (Lockett, 2008 & Thompson, 2008). Upon approval, contracts were negotiated with recommended vendors (Martin, 2008).
2. Operation: Upon the execution of welfare-to-work contracts, BCDSS contract managers began contract monitoring. Additional contract managers were hired to assist with contract monitoring. Each contractor was assigned a

contract manager, who was responsible for monitoring the performance of the contractors. Contract managers performed quarterly site visits. During each site visit, contract managers reviewed welfare recipient customer files for documentation of the kinds of services received, communications with BCDSS caseworkers, and employment placement documentation (Freeman, 2008). Contractors were required to enter data on each welfare recipient they were assigned into database. BCDSS contract managers produced monthly reports and provided quarterly reports to DHR (Lockett, 2008).

3. Separation: From 1997 to 2000, BCDSS managed 19 contracts (Baltimore City Department of Social Services, 1998). Eighteen of the contracts were completed. One contract was terminated because of convenience. The termination was sought and agreed to because the contractor was not confident that BCDSS would be able to provide adequate welfare recipient referrals in time for the contractor to generate enough invoice revenue to continue operating (Freeman, 2008).

While fulfilling their responsibilities as contract managers, BCDSS contract managers were impacted by several of the forces Cooper includes in the Horizontal portion of his model. Such horizontal forces included federal, state, and local laws and regulations, such as the federal mandate to increase the percentage of welfare recipients who participate in work activities and who transition from the welfare role into employment, while having to report to the Maryland Department of Human Resources, the state legislature, and the Governor (Freeman, 2008).

Second, when faced with contract implementation challenges such as contractors' difficulties in entering data into the state data management system, Work Opportunities Management Information, or with submitting invoices, BCDSS contract managers provided needed technical assistance. In addition, BCDSS contract managers continuously sought feedback from contractors on how to improve the contracting process (Lockett, 2008).

Third, this research study did not discover evidence that supports the assertion that contract managers served as a kind of interpreter, enforcer, or circuit stimulus in the direct implementation of the Charitable Choice provision in Maryland. Although, this research study examined the actions of BCDSS contract managers who managed contracts with three faith-based organizations to provide welfare-to-work services. It has been discovered that these contracts were not the result of an intentional effort to implement Charitable Choice (Lockett, 2008 & Thompson, 2008).

However, it can be concluded there is evidence that BCDSS contract managers did act as interpreter, enforcer, and problem solver in implementing its welfare-to-work contracts in general. For example, BCDSS contract managers developed strategies to address two major contracting challenges encountered by its 18 vendors (i.e., proper WOMIS data entry and invoice preparation) that had the potential of preventing Maryland from achieving PRWORA requirements. As a result, technical assistance was provided through quarterly contractors meetings and trainings provided by BCDSS staff and contract managers working individually with the contractors they managed (Lockett, 2008).

Fourth, the three faith-based organization contractors (i.e., Catholic Charities, Payne Memorial Outreach, The Caroline Center) were not selected to be contractors by BCDSS to fulfill the Charitable Choice provision. The three organizations were selected because they were judged to be capable of fulfilling contractual obligations and meeting the needs of welfare recipients (Lockett, 2008 & Thompson, 2008). Furthermore, the three organizations did not seek contracts because of Charitable Choice (McLaughlin, 2008, Thomas-Christon, 2008, Harper, 2008).

These conclusions are supported by the results of the Contract Managers Roles propositions included in this study. The results are presented below in table and narrative form. Overall, it can be concluded that 10 of the 11 Contract Managers Roles Propositions were supported by the research study's findings.

Table 7: Contract Managers Roles Propositions Supported		
Propositions	# of interviewees supporting propositions	# of documents supporting propositions
A. Integration Phase		
A.1. Contract managers participate in needs assessment to determine the needs of Temporary Assistance for Needy Families (TANF) customers.	1	0
A.2. Contract managers develop the Request for Proposals for Purchase of Service Contracts.	1	2
A.3. Contract managers oversee the solicitation of proposals.	1	0
A.4. Contract managers coordinate the scoring of proposals.	1	0
B. Operations Phase		
B.1. Contract managers draft contracts for contractors.	0	1
B.2. Contract managers negotiate contracts with contractors.	0	1
B.3. Contract managers perform contract	1	1

Table 7: Contract Managers Roles Propositions Supported		
Propositions	# of interviewees supporting propositions	# of documents supporting propositions
oversight/monitoring.		
B.4. Contract managers perform contract auditing.	1	1
C. Separation Phase		
C.1. Contract managers terminate contract after completion of contract by contractor.	1	1
C.2. Contract managers terminate contract because contractor fails to meet contract obligations.	0	0
D. Additional roles		
D.1. Contract manager provide technical assistance to contractor.	7	1

Integration Phase

A.1. Contract managers participate in needs assessment to determine the needs of Temporary Assistance for Needy Families (TANF) customers.

BCDSS staff held a focus group of welfare recipients and reviewed national studies on welfare recipients' needs to understand what types of welfare-to-work programs and services would be needed to meet PRWORA goals. The information gained from these sources was used to craft subsequent RFPs (Thompson, 2008).

A.2. Contract managers develop the Request for Proposals for Purchase of Service Contracts.

Once the decision was made to contract out, BCDSS staff worked together with Maryland Department of Management & Budget staff to develop the first two BCDSS RFPs (Lockett, 2008).

A.3. Contract managers oversee the solicitation of proposals.

The RFPs were open to both profit and nonprofit entities. BCDSS offered one pre-bid conference. At least 15 entities submitted proposals (Lockett, 2008).

A.4. Contract managers coordinate the scoring of proposals.

A proposal evaluation team with individuals from BCDSS, DHR, the Maryland Department of Labor, Licensing, and Regulations, and the Department of Business and Economic Development, and the Baltimore's Mayor's Office reviewed, scored, and ranked the proposals according to the RFP criteria (Lockett, 2008).

B. Operations Phase

B.1. Contract managers draft contracts for contractors.

BCDSS utilized DHR standard contract template for its contracts (Martin, 2008).

B.2. Contract managers negotiate contracts with contractors.

Upon approval from BCDSS and the necessary state level agencies, BCDSS contract managers negotiated contracts with recommended vendors (Martin, 2008).

B.3. Contract managers perform contract oversight/monitoring.

Upon the execution of its welfare-to-work contracts, BCDSS contract managers began contract monitoring. Each contractor was assigned a contract manager, who was responsible for monitoring the performance of the contractors (Freeman, 2008).

B.4. Contract managers perform contract auditing.

BCDSS contract managers performed quarterly site visits at each contractor's site. During each site visit, contract managers reviewed welfare recipient's files for documentation of the kinds of services received, communications with BCDSS caseworkers, and employment placement documentation (Freeman, 2008).

C. Separation Phase

C.1. Contract managers terminate contract after completion of contract by contractor.

Between 1997 and 2000, BCDSS had 18 of its 19 contractors complete their contracts. One contract was terminated before the end of its official completion date because of convenience. The contractor sought termination because its management was not confident that BCDSS would be able to provide adequate welfare recipient referrals in time for the contractor to generate enough invoice revenue to continue operating (Freeman, 2008).

In 2000, when the Caroline Center contract ended the Center continued providing job training services without compensation to 142 welfare recipients under a Memorandum of Understanding with the BCDSS that lasted for two years. Eventually, BCDSS informed the Center that it could no longer honor the agreement because the recipients had to be enrolled in work related activities, in order to continue receiving their TANF benefits (McLaughlin, 2008).

C.2. Contract managers terminate contract because contractor fails to meet contract obligations.

There were no contracts terminated because a contractor failed to meet contract obligations (Freeman, 2008).

D. Additional roles

D.1. Contract manager provide technical assistance to contractor.

BCDSS provided training on how to use the Work Opportunities Management Information System (WOMIS) and on how to complete payment invoices to faith-based contractors (Lockett, 2008).

Chapter VI – Significance of Study and Recommendations

Significance of Study

Studying the implementation of Charitable Choice in Maryland and the role of contract managers in the process has been a fruitful endeavor and has significance for several reasons.

The Significance of Study for Theories of Policy Implementation

This research study affirms the value of Bardach's "fixer" (1977). Barriers will arise during the policy implementation process that requires an individual or individuals to develop strategies to maneuver around them. Governor Ehrlich represented a fixer when he utilized his executive orders privilege to institute his version of President Bush's faith-based office. Without the executive order, Maryland's legislature would have continued to obstruct his efforts to promote Charitable Choice. Other governors may wish to consider such a tool for their policy implementation tool kit.

The study also affirms the value of examining the participation of other policy actors who are not top-level, central decision-makers in the policy implementation process (Sabatier, 1986). Although, the Baltimore City Department of Social Services did not select its three faith-based job training providers because of an attempt to implement Charitable Choice (Lockett, 2008 & Thompson, 2008), the department's selection of the three providers demonstrated that Maryland government agencies can successfully contract with faith-based organizations to provide job training on the same basis as secular providers without controversy.

This suggests that faith-based organizations' leaders interested in contracting with government agencies should consider making outreach to their local government agencies to learn about contracting opportunities.

The Significance of Study for Research Methods, Like Case Study Methodology, to Study Contract Officers

There are several benefits in using case study methodology for research including its capacity to answer “how” questions (Yin, 2003, p. 6) and its ability to provide rich details about policymaking and to delve into nuances that may be lost in broader treatments (Edwards, 1980, p. 7). The details presented in this research study provide significant insight into the goals, objectives, and concerns of the Baltimore City Department of Social Services contract managers as they administered contracts with both secular and faith-based organizations. The detailed information should enable a reader to understand the rationale for decisions made; the process for implementing decisions, the challenges encountered while administering contracts, and actions undertaken to solve problems. While also providing information on the political factors impacting the environment in which they had to administer and monitor contracts.

It is desired that from reading this study, contract managers will glean some ideas as to how to attract faith-based organizations to work with their government agencies and how to enhance current relationships with faith-based organizations; particularly, as it relates to identifying the need for technical assistance and providing it in a timely manner.

The Significance of Study for the Role of Contract Managers As They Attempt to Navigate Charitable Choice Controversies, While Attempting to Ensure Accountability.

Charitable Choice has engendered political and legal controversy (Kennedy & Bielefeld (2002); Lupu & Tuttle (2002); & Lupu & Tuttle (2005). This controversy has the potential of further complicating the work of contract managers who must work in an environment that is already contending with a history of corruption and concerns about contractor accountability (Cooper, 2003, pp. 4-7). The Baltimore City Department of Social Services contract managers included in this research study demonstrated that ensuring contractor accountability in a controversy conducive environment is possible when working with faith-based organizations.

The key to ensuring accountability was the contract managers following prescribed state procurement procedures to solicit and to select all of its faith-based contractors. No special exceptions or changes to any policy were made. In addition, the contract managers established appropriate monitoring and technical assistance procedures that were equally applied to all of the department's contractors. It can be concluded that the procedures were not too onerous, because all of the contractors maintained their contracts until each contract's expiration date.

The Significance of the Study to the Study's Author, a Newly Minted Scholar-Practitioner.

Having completed this research study, I now know that I possessed very limited understanding of the role and significance of contract managers when I served as the Executive Director of one of the three faith-based organizations (Payne Memorial

Outreach) that was contracted by the Baltimore City Department of Social Services. I also had a very, very limited understanding of the challenging political environment in which they functioned. Although, I was aware of the stringent work participation requirements of welfare recipients that the department was tasked to fulfill because that was repeatedly emphasized when my organization sought payment for services. This research study forced me to look at my organization's specific contracting experience from multiple, competing perspectives that were equally valid. As a result, my respect has grown ten-fold for the contract managers that were interviewed for this research study.

For several years, after completing the contract I would whole-heartedly encourage leaders of faith-based organizations to pursue government contracts. However, while working on this research study I have tempered my enthusiasm. Now, I encourage faith-based leaders to seek contracts only if they have the capacity to fulfill contractual obligations and are informed about the current political, social, and economic factors that may impact their work and are prepared to make appropriate adjustments to their plan of operations when factors dictate.

Overall, this research study has provided detailed information on one set of contract managers in Maryland who sought to fulfill their everyday job responsibilities. In fulfilling their everyday responsibilities, they confirmed that policy implementation is a complex undertaking and that local-level government officials can impact policy implementation in a positive manner.

Recommendations

This research study of Baltimore City Department of Social Services contract managers provides an example of how contract managers can successfully work with religious organizations to achieve public goals and objectives, without compromising these organizations' religious character and the Establishment Clause.

Between 1997 and 2000, there were several opportunities for religious organizations to contract with government. An examination of the roles of contract managers in administering all of these opportunities has the potential of adding to the body of knowledge of the roles of contract managers in policy implementation.

Although there were several findings in this study, further research is recommended. The foci of other research topics might include:

- 1) the religious organizations that participated as community sponsors in the Anne Arundel County Department of Social Services' Community Directed Assistance Program (C-DAP);.
- 2) the 22 other local departments of social services that implemented "locally based/vendor support," "vendor based/local assessment," "vendor based/local assessment" work opportunities service delivery models to learn of any experiences in contracting with religious organizations;
- 3) the organizations that participated as third party payees for welfare recipients, as required by the Welfare Innovation Acts, to learn if any were religious organizations;
- 4) the roles of Governor Ehrlich and the Governor's Office of Community Initiatives; and/or

- 5) the demonstration projects, required by the Welfare Innovation Acts, to determine if any religious organizations participated.

Conclusion

The work of contract managers is critical to the success of the programs they work to support. Contract managers perform many responsibilities while attempting to secure the best value for the public. Knowing how successful contract managers perform their duties has the potential to enhance the success of the contract management profession and the delivery of quality programs and services for the public.

APPENDIX A

INFORMED CONSENT FORM

You, (name of individual), are invited to participate in a study, The Role of Contract Managers in the Implementation of Charitable Choice in Maryland. I hope to learn how has the Charitable Choice provision of the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) (1996) has been implemented in Maryland and the roles that contract officers played. You were selected as a participant for this study because you participated in the implementation of the policy directly or indirectly as a policy official or a contracting official.

If you decide to participate, I will be conducting at least one personal interview with you. The interview will be tape recorded and scheduled at your convenience. A written transcript(s) will be produced from the tape recording. You will have the opportunity to review the transcribed information for accuracy. Any information you wish to change or delete will be handled accordingly. All interview tapes will be maintained in a secure place for one year following the interview date(s) and then destroyed. The purpose of the interview will be to gather information on your participation in and knowledge of the implementation of Charitable Choice in Maryland and the challenges it created for contracting officers, if any. Questions used in the interview are not intended to cause discomfort or reveal any information you deem personal, private, and/or confidential. There are no risks involved in this study.

This is a case study for the purpose of completing a final research project for the requirements of the Doctor of Public Administration at the University of Baltimore. You understand that the information obtained in the interview will be contained therein and will be publicly available. Because of the nature and extent of the information obtained, you understand that your identity will not be anonymous.

Your decision whether or not to participate will not prejudice your future relation with the University of Baltimore. If you decide to participate, you are free to discontinue participation at any time without prejudice.

If you have any questions, please do not hesitate to contact Dr. Lenneal Henderson at (410) 837-6198, who will be happy to assist you.

You will be offered a copy of this for your files.

You are making a decision whether or not to participate. Your signature indicates that you have read the information provided above and have decided to participate. Should you decide not to participate after signing this form you may withdraw at any time without penalty or loss of benefits to which you may be entitled.

Participant's Signature

Date

Program Advisor's Signature

Date

Investigator's Signature

Date

APPENDIX B Interview Protocol

Marilyn M. Aklin
DPA Interview Protocol

Date: _____

Person being interviewed: _____

Previous Relevant Position: _____

Current Relevant Position: _____

Location of Interview: _____

Time Started: _____ Ending Time: _____

- 1) Introductions and 2) Thank you**
- 2) Informed Consent Form**
- 3) Charitable Choice Provision in law**

Purpose of Study:

Using case study methodology, this research study seeks to address the two questions: what are the roles of public sector contract managers in the implementation of the Charitable Choice provision in Maryland and how was the Charitable Choice provision implemented in Maryland? In the past ten years, a growing number of scholars, think tanks and government officials have conducted research to determine the nature and extent of implementation success and the current impact of the Charitable Choice Policy as a policy and administrative initiative in Maryland. The research has run the gamut from detailed, multi-state studies to surveys of religious organizations on the local level to efforts to catalogue the human services they provide. Many studies have concentrated on individual states. However, noticeably missing are studies focusing on the roles of contract managers in the implementation of the Charitable Choice provision, particularly in the State of Maryland. This research seeks to address this void by examining how the provision was implemented and the role of contract managers in its implementation. This research study covers the ten year period, 1996 to 2006, of two different gubernatorial administrations representing the two major political parties.

Questions

Policy Implementation

1. How was the Maryland Department of Human Resources (DHR) and its staff involved in the implementation of Charitable Choice?
2. How much policy guidance was provided by DHR concerning Charitable Choice?
3. How much resources (e.g., funds for additional staff, trainings on the policy) was provided by DHR or BCDSS?
4. How were contract managers involved in the implementation of Charitable Choice?
5. Are there any documents that you would recommend that I locate a copy of that will help me in my study?

Contract Officer Roles

6. How was the Charitable Choice provision introduced to and implemented by BCDSS in these contracts?
7. How many RFPs were issued for services to TCA customers?
8. How many organizations applied for contracts?
9. How many faith-based organizations applied for contracts?
10. How many contracts were awarded?
11. How many contracts did you manage?
12. How many faith-based organizations contracts did you manage?
13. Why were these organizations selected to receive a contract?
14. Please describe your responsibilities and roles in the implementation of these contracts?

15. How did the Charitable Choice provision impact your role as contract manager?
16. Are there any documents that you would recommend that I locate a copy of that will help me in my study?

Faith-Based Contractors

Interviewee's Background:

1. What is your name?
2. Where were you born?
3. What is your educational and professional background?

Background of organization

1. What is the history of your organization?

The Process of Seeking and Securing Government Funding

1. Was this the first time that your organization sought government funding?
2. Why did the organization pursue government funds?
3. How did you learn of the funding opportunity?
4. What were the actual experiences of the organization in securing government funding?
5. What was your actual experience in implementing a government funded contract?
6. How many persons was your organization contracted to serve?
7. How many persons did your organization serve?
8. What services did the organization provide with government funding?
 - a. What kinds of job training did you provide?
 - b. Did you provide job readiness? Problem Solving? Workplace Expectation? Time, Stress and Anger Management? Customer Service Skills? Professional Imaging? Conflict Resolution? Financial Literacy?

- c. Did you provide job search, development and placement services? Training in Job Search Steps? Resume Preparation? Job Fairs? Interview Techniques? Application Completion Assistance? Proper Telephone Conversation?
 - d. Did you provide assessment? Education? Skills and Interests? Health? Barriers? Personality? Work History? Chemical Dependency?
 - e. Did you provide education? Basic Education? GED? English as Second Language?
9. How was your contract officer involved in the implementation of your contract?

APPENDIX C List of Interviewees

Face-to-Face Interviews (Transcribed)		
Name	Position	Interview Date
Gary Lockett	former Maryland Department of Human Resources official; former contract administrator for Baltimore City Department of Social Services, 1996-2001.	November 20, 2008
Denise Harper	Former Assistant Executive Director of Payne Memorial Outreach, 1996-2001	November 22, 2008
Gerald Martin	former Baltimore City Department of Social Services Director of Contract Management from 1995 to 2004.	November 24, 2008
Patricia McLaughlin	Executive Director of the Caroline Center	November 26, 2008
Sandy Rosenberg	Co-Chair of the Joint Committee on Welfare Reform, 1996-2003	December 3, 2008
Jonathan Thompson	Program Administrator: Job Development/Support Services-Baltimore City Department of Social Services	December 8, 2008
Richard Larson	Maryland Department of Human Resources, Social Services Administration, Deputy Executive Director-Operations	December 11, 2008
Cindy Freeman	former Baltimore City Department of Social Services contract manager, 1992-2004	December 17, 2008
Charleen Thomas-Christon	Coordinator of Baltimore City Head Start Programs-St. Veronica's/Damascus and Herring Run Welfare-to-Work programs-Catholic Charities of the Archdiocese of Baltimore	December 18, 2008
Telephone Interview (Not Transcribed)		
Name	Position	Interview Date
Senator Martin G. Madden	Co-Chair of Joint Committee on Welfare Reform, 1996-2001	April 30, 2009

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