

# GAO Highlights

Highlights of [GAO-18-164](#), a report to congressional requesters

## Why GAO Did This Study

The federal government provides billions of dollars in grant funding to organizations offering social services, including FBOs. In carrying out their mission, some FBOs prefer to hire individuals who share their religious beliefs. Although the 1964 Civil Rights Act prohibits employment discrimination based on religion, section 702(a) of the Act exempts FBOs from this prohibition, thereby allowing them to hire based on religion. However, some federal grant programs contain statutory restrictions prohibiting this practice. Since a 2007 DOJ legal opinion, federal agencies allow faith-based grantees to use RFRA as a basis for seeking an exemption to allow religious-based hiring.

GAO was asked to review the extent to which faith-based grantees have sought RFRA exemptions from statutory restrictions on religious-based hiring. This report describes (1) what is known about faith-based grantees that have certified exemption from statutory restrictions on religious-based hiring, per RFRA, since 2007; and (2) how agencies inform grantees of statutory restrictions on religious-based hiring and requirements for demonstrating their eligibility for an exemption.

GAO reviewed information from DOJ, HHS, and DOL grantees from fiscal years 2007 to 2015 that were subject to statutory restrictions on religious-based hiring. GAO interviewed faith-based grantees that certified as exempt and a selection of those that did not. GAO also reviewed agency grant documentation and guidance provided to grantees and interviewed cognizant officials to understand the processes FBOs must follow to certify as exempt.

View [GAO-18-164](#). For more information, contact Diana Maurer at (202) 512-8777 or [maurerd@gao.gov](mailto:maurerd@gao.gov); or Cindy Brown Barnes at (202) 512-7215 or [brownbarnesc@gao.gov](mailto:brownbarnesc@gao.gov).

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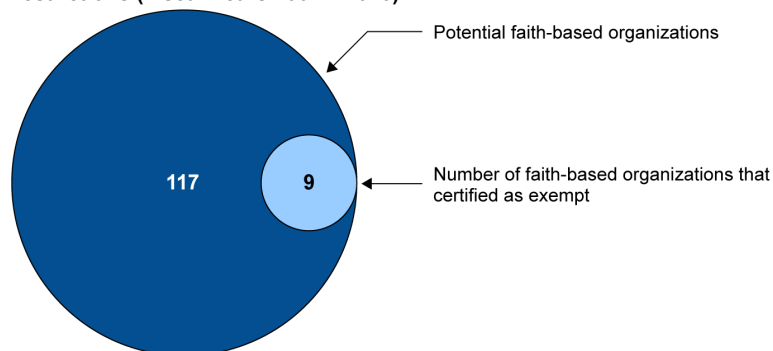
## FAITH-BASED GRANTEEES

### Few Have Sought Exemptions from Nondiscrimination Laws Related to Religious-Based Hiring

## What GAO Found

From fiscal years 2007 through 2015, few faith-based grantees sought an exemption based on the Religious Freedom Restoration Act of 1993 (RFRA) from nondiscrimination laws related to religious-based hiring. Specifically, GAO found that the Department of Justice (DOJ), Department of Health and Human Services (HHS), and Department of Labor (DOL) awarded funding to at least 2,586 grantees through at least 53 grant programs containing nondiscrimination hiring restrictions during this time. The number of relevant grant programs could be higher, because GAO could not identify all such programs due to data limitations. Across the 3 agencies, GAO identified 117 grantees that were potential Faith-Based Organizations (FBOs). Of the 117 potential FBOs, 9 DOJ grantees were FBOs that certified as being exempt from statutory restrictions on religious-based hiring. GAO interviewed 6 of these FBOs, all of which stated that hiring individuals who share their religious beliefs was critical to their mission, and that had the RFRA exemption not been available to them, they likely would not have sought the grant.

**Number of Potential Faith-Based Grantees Identified as Subject to Statutory Restrictions on Religious-Based Hiring, including Those that Certified They Were Exempt from These Restrictions (Fiscal Years 2007 – 2015)**



Source: GAO analysis of Department of Health and Human Services, Department of Labor and Department of Justice data. | [GAO-18-164](#)

DOJ, DOL, and HHS inform grant applicants and recipients of statutory restrictions on religious-based hiring and processes for obtaining an exemption from such restrictions generally through grant materials. DOJ and DOL also provide relevant information on their web sites. All three agencies require grantees that seek to make employment decisions based on religion to self-certify that they meet requirements to be eligible for an exemption, but vary in how they review and approve requests for exemptions. For example, DOJ, DOL, and HHS have policies requiring grantees to submit their exemption self-certification, but only DOL reviews exemption requests and either approves them or provides a reason for denial.