

House Oversight and Government Reform Committee, hearing, "HHS and the Catholic Church: Examining the Politicization of Grants," 1 December 2011 (9:30 AM)

- **Chair:** Representative Darrell Issa (R-CA)
- **Witness:** George Sheldon, Acting Assistant Secretary, Administration for Children and Families, U.S. Department of Health and Human Services
- **Witness:** Eskinder Negash, Director, Office of Refugee Resettlement, Administration for Children and Families, U.S. Department of Health and Human Services Location
- **Location:** 2154 Rayburn House Office Building, Washington, D.C.

REPRESENTATIVE DARRELL ISSA (R-CA): (Sounds gavel.) This hearing will come to order.

The first order of business is I ask unanimous consent that Representative Chris Smith of New Jersey be allowed to join us from the dais and ask questions of the witnesses, and that his written statement be included in the record. Without objection, so ordered.

Before I begin today I want to also include in the record four documents the committee has received -- not from Health and Human Services, pursuant to the committee's request for documents -- but from whistleblowers, as I want to make sure that the committee's majority and minority both have them. We had not released these documents, but these documents became available to the press; and had hoped to have full and complete documents from HHS beforehand. I'll put the rest in, but ask unanimous consent they be placed in the record and distributed to all members at this time.

REPRESENTATIVE ELIJAH CUMMINGS (D-MD): Mr. Chairman --

REP. ISSA: The Ranking Member.

REP. CUMMINGS: Mr. Chairman, I want to object that I haven't seen the documents. Will we -- (inaudible) -- see them before we even --

REP. ISSA: Of course. The gentleman reserves the documents will be distributed to all the members.

For clarity, these are internal documents -- as far as we can tell, authenticated -- that have been printed out. And Politico has them; The Washington Post has them; we don't know how many other newspapers have them. Again, the nature of the beast were, these were pursuant to our investigation. They were not delivered to us by HHS, which is a separate matter of investigation, since they were fully due and should have been presented to us; were withheld.

And I would only say that, as the Ranking Member evaluates them, and the other members of the committee, these are -- these are documents, in the opinion of the chair, that are a failure to deliver pursuant to our request, and, as such, are subject to additional enquiry by the committee. The committee takes seriously that documents should not be released by whistleblowers who are afraid that, basically, these documents may have been deliberately withheld.

REP. CUMMINGS: Mr. Chairman, so these are HHS documents that would have come in if HHS had adhered to the subpoena. I'm just trying to get clarification --

REP. ISSA: That's our opinion of the documents, having looked at them. Again, HHS will have an opportunity to say why they withheld these documents.

I'm releasing them at this time to the committee because I don't believe that we should go forward with this hearing without having as many documents as are available. And if they're available to the press, even though they haven't been formally published, certainly they're likely to be seen by the public. I don't want any member here to go through a hearing and then find out he didn't know what he didn't know.

REP. CUMMINGS: I just wanted the chair to be clear, we're just reserving for just a few minutes so that we just have time to just review.

REP. ISSA: OK. And I'd also ask the committee staff to make them available to HHS staff. So if there's any question of authenticity, we'd like to have that resolved early on in the process. I don't think these are the most determinative documents in the world, but it is -- it is the nature of us, of our committee, we're an investigative committee and professionalism, at least on our part, is essential.

REP. CUMMINGS: And just -- and just in fairness to HHS, and I know they'll have an opportunity to respond, is the time up for them to submit documents?

REP. ISSA: Yes, it is.

REP. CUMMINGS: OK. All right. Thank you.

REP. ISSA: Although, we'll be happy to have supplemental discovery -- (chuckles) -- at any time.

With that, the Oversight committee exists for two purposes: We secure the fundamental principles first, that Americans have a right to know that the money Washington takes from them is well spent; and second, Americans deserve an efficient, effective government that works for them. Our duty on the Oversight and Government Reform committee is to protect these rights. Our solemn responsibility is to hold government accountable to taxpayers, because taxpayers have a right to know what they get from their government. We will work tirelessly in partnership with citizen watchdogs to deliver the facts to the American people and bring genuine reform to the federal bureaucracy. This is the mission of the government oversight committee.

Two weeks ago this committee approved a bill authored by subcommittee chairman, Mr. Lankford, to require transparency in the grant-making process. Today we are present -- presented with an example of why this bill is so important. To ensure that agencies are held to accountable -- are held accountable and responsible stewards of the taxpayers' funds; and in this case, the taxpayers' funds and the taxpayers' execution of these funds to the greatest benefit of the beneficiaries they're intended to.

As we attempt to understand the decision-making process used to award these grants, a process that from the outside observer's perspective appears to be inexcusably, politically altered. The grant went to four organizations. It went -- I've got a mistake in the written statement -- it went to three out of four that applied. The committee has learned many disturbing facts about the process.

Most experienced and top-rated national applicant was not selected for this award. Other organizations, including ones who -- that submitted much lower rating -- rated proposals, were somehow funded. The process was delayed for months while the agency struggled to find ways, in our opinion, to inject a new criteria to alter the funding process.

That criteria was not, in fact -- as has been reported by HHS -- a stipulation or requirement. Just the opposite.

Although the new statement was part of the process, it was clearly understood that applicants who would not meet that, quote, "new stipulation," were still eligible to apply. Meaning, there was an expectation that if they were the most qualified, or among the most qualified, they would still be awarded.

Notwithstanding that, a political appointee -- unconfirmed, and effectively a czar -- interjected themselves and made a decision that changed the outcome of this grant from the decision that otherwise would have been made by career Civil Service employees. This undermines the integrity of the process and violates the spirit, if not the letter, of the federal law and regulations that prohibit discrimination on the basis, in this case, of deep religious beliefs that were well known before the applicant applied.

If we were going to have a litmus test that Catholics need not apply, if to administer a -- and I repeat, administer -- a procedure, we need to say so, we need to codify it in the law, and we need to stand the scrutiny of the Supreme Court. It is clear to this member you cannot stand the scrutiny of the Supreme Court -- to simply make an organization that has a religious-based belief completely ineligible without a review by the court. The court would not side with Health and Human Services in this case.

Now, many will couch this as this is a somewhat more complicated issue. This member does not believe that it is complicated. But I do believe that this committee has a responsibility that goes far beyond the religious-related question that may be brought up on both sides of the dais.

Just the opposite. This committee has a responsibility to see that the process is predictable at the end, based on the applicant's expectations at the beginning. Whether it is, in fact, the award of tanker contracts by the Air Force; whether it is green energy proposals; whether, in fact, it's an underwriting of a purchase of a steel mill somehow deemed to be green, this committee has an obligation to look at grants and awards, and make sure that they are predictably -- predictable, in a non-partisan, non-ideological way. This committee chairman is not of that conclusion.

Perhaps today we will get some answers that will help us see the nuances. But as of this point, it is the chair's view that, in fact, the system is more of an earmark in the case of this award -- a presidential or appointee earmark than, in fact, a competitive grant.

Congress has -- both majority and minority -- stopped the practice of earmarks. We must ensure that the grant process can never be called an earmark process with preferences based on ideology or political appointees' whims.

With that, I recognize the Ranking Member for his opening statement.

REP. CUMMINGS: Thank you very much, Mr. Chairman.

I'd like to take a moment to remind everyone of our ultimate goal here today: to help victims of human trafficking, forced prostitution, sex slavery to escape their conditions and put their lives back together. These victims have survived horrifying abuses that few people in this room can even imagine. These atrocities are simply despicable, almost unspeakable. But we cannot shy away from them. We must address them directly and give these victims a voice.

To conduct a responsible review of the process used to award these grants, we need to understand who these victims are, what they have gone through, and why they need reproductive health services. This is an extremely uncomfortable issue. We are talking about young women who have been raped, sometimes repeatedly, and often have been -- have contracted sexually transmitted diseases. In addition, many of them are coping with severe psychological trauma.

If I may, I would like to ask unanimous consent to enter into the record these studies on this issue. First, is the State Department's 2011 report on trafficking in persons, which say this: The United States is a source -- is a source, transit and destination country for men, women and children subjected to forced labor, debt bondage, documented servitude and sex trafficking.

REP. ISSA: Without objection, so ordered.

REP. CUMMINGS: Thank you, Mr. Chairman.

Second, is a study by researchers at the London School of Hygiene and Tropical Medicine which finds that 90 percent of trafficking victims report, quote, "having been physically forced or intimidated into sex, or doing something sexual."

REP. ISSA: Without objection, so ordered.

REP. CUMMINGS: Third, is a study by researchers at the University of Pennsylvania which reports that, and I quote, "Between 244,000 and 325,000 American children and youth are at risk each year of becoming victims of sexual exploitation, including as victims of commercial sexual exploitation."

REP. ISSA: Without objection, so ordered.

REP. CUMMINGS: Thank you, Mr. Chairman.

To address these problems, HHS stated in its grant announcement that these funds are intended to provide comprehensive case management services that include referrals of family planning services. To be clear, this is not about using federal funds for abortions. This is about providing referrals for a full range of contraception, family planning and other reproductive health services. Applicants who are willing and able to provide these referrals got preference over those who were not.

Mr. Chairman, after you announced this hearing I sent to you a letter requesting additional witnesses. They are individuals who work for organizations that help these victims on a daily basis and advocate on their behalf. It would have taken the committee very little time to hear from them today and they would have provided a compelling case for why these services are so critical for these victims.

Ultimately, you rejected my request. In your response letter you said this type of testimony was not the subject of today's hearing. I strongly disagree. If our goal is to analyze these grants in a responsible manner, we cannot ignore the voices of these human trafficking victims, many of whom are very young women who have been exploited and raped by their persecutors.

For these reasons, today I am invoking my right as the ranking member to request a minority day of hearings under House Rule 11. I am submitting for the record the required letter with the appropriate number of signatures.

Mr. Chairman, you have scheduled no full committee business for the entire week of next week. We have no full committee hearings and no mark-ups. Since our schedule is wide open and since the witnesses are willing to appear, I respectfully request that you schedule the hearing for then. And I thank you. And with that, I yield back.

REP. ISSA: Would the gentleman yield?

REP. CUMMINGS: Yes, of course.

REP. ISSA: Although you have a right under Rule 11, I would strongly suggest that you wait until the conclusion of the hearing to assert that. It is the decision of the chair to limit the scope of this hearing.

Having said that, as I've already announced to the witnesses, I have a strong expectation that during the process of a more narrow hearing, that was and is on the question of whether or not merit-based procedures were used, this committee is very likely to have a rather wide-ranging discussion, along with our witnesses, on some of the particulars of the trafficking in human beings -- people being used as sex slaves -- a great many issues, that although not the subject of this hearing, may very well be the subject of a follow-up hearing.

For that reason, I would hope that everyone would reserve judgment until we've gone through this. And if the committee, at the conclusion of a more narrow hearing, want to explore this other issue, which is inexplicable -- or, no, inseparable, in many ways, from what these gentlemen work on every day around the country, then I certainly would entertain scheduling an investigation, and a hearing and other committee work related to that issue.

If the gentleman doesn't know, I have worked on the question of trafficking in human beings, all the way back in the Bush administration. And I agree with the gentleman that, that is an area that there is never enough attention by Congress. So if the gentleman will reserve that motion until the conclusion, I certainly will entertain the motion.

REP. CUMMINGS: Mr. Chairman, I will reserve.

And I just want to -- first of all, I appreciate what you just said. And when I read some of the testimony, and -- (inaudible) -- this issue -- and I'm glad you've been involved in it -- I mean, I was horrified. And I just want to make sure, as I know you do, and a part of this hearing is about this, making sure that HHS is doing its part to help these young victims address their particular needs.

And so the request for the hearing was in that vein -- the ultimate goal of trying to help the people who are in big trouble, and many of them, of course, are our own fellow citizens. And with that, Mr. Chairman, I reserve until the end of the hearing.

REP. ISSA: Great. The gentleman yields back. And all members will have five days to submit opening statements.

And with that, today's hearing, we'll hear from two witnesses from the Department of Health and Human Services. First of all, George Sheldon is the acting assistant secretary of the Administration on Children and Families; and Mr. Eskinder Negash is the director of the Office of Refugee Settlement.

Gentlemen, pursuant to the rules of this committee, all witnesses who testify are to be sworn. Would you please rise to take the oath?

(The witnesses are sworn.)

REP. ISSA: Let the record reflect affirmative answers by both.

Please be seated.

Now, Mr. Sheldon, I know you've testified once before, Mr. Negash perhaps not, but you've all seen this on C-SPAN. Your prepared statements, in their entirety, will be placed in the record. And knowing that you're administration witnesses, it is often pushed that you stay to your script, and we understand that. But if you abbreviate your script or want to include any individual statements, as long as you remain within the five minutes, we're delighted. If you finish sooner, we will get to questions sooner. If you run slightly over, as long as you're not totally reading a statement that was simply too long -- (chuckles) -- when written, we'll allow you to complete it.

So with that, Mr. Sheldon, you're recognized.

GEORGE SHELDON: Members of the committee, thank you for the opportunity to testify about international trafficking and the role of the Department of Health and Human Services.

The organization I lead, the Administration for Children and Families, is responsible for certifying foreign persons as trafficking victims and assisting them with the services that they need to rebuild their lives. One of the ways we do this is through the Trafficking Victims Assistance program. I came to my current position with direct experience with trafficking. As secretary of the Florida Department of Children and Families, I co-chaired with the commissioner of law enforcement the state's human trafficking task force.

I helped lead the state's efforts to develop policies that protect and support victims, and punish their traffickers. I heard directly from victims about abuse and degradation. As I make decisions about human trafficking policy, I continue to think about these victims and what they need to regain control of their lives. Foreign national trafficking victims are drawn from countries throughout the world, often through the use of force, coercion and fraud. They're generally poor, young and extraordinarily vulnerable.

Many victims, as indicated, have been raped and beaten into terrified submission. Victims face numerous health risks, including physical injuries, such as broken bones, burns, sexually-transmitted disease, and other diseases. Victims often find themselves physically and psychologically afraid to reach out to law enforcement officers. Traffickers often control victims by limiting their access to basic information that all of us take for granted, such the name of the city where they live, or whether law enforcement officers will arrest them. Victims need access to all available information to help decide what is the best path for them.

Since 2001 we have certified more than 3,000 victims of trafficking. Forty-one percent of the minors were victims of sex trafficking or a combination of sex and labor trafficking. The purpose of the Victim Assistance program is to provide short-term, comprehensive management services. It also may include emergency assistance on a limited basis, such as food and clothing and shelter.

Our experience in operating in this program for 10 years drove home to us the particular health risks posed by victims of human trafficking. As a result, we specified in the funding announcement that we would give a strong preference to applicants that are willing to offer all the services and referrals delineated in the program objectives, including offering victims referral to medical providers that can provide or refer to a full range of services they need. But ultimately, it is up to the victim to choose the services.

The HHS grantee does not directly provide services but enters into subgrant contracts with local organizations. But I want to point out that organizations that do not provide information or referral for family planning services can still receive federal money. They can choose to subgrant contracts with subgrantees to provide services that they cannot or do not wish to perform.

In 2011 we received applications from several organizations that had the strong capacity to provide comprehensive case management. In making the decision, we needed to ask the basic question: Which organizations were best able to serve all the needs of the victims? We selected grantees that are able to provide a full set of health-related referrals.

The three organizations selected will enable trafficking victims to retake control of their lives by making informed health care decisions based on their own circumstances, their own values and their own faith. The three entities that were awarded the grants have still entered into subgrant arrangements with many faith-based organizations, including entities affiliated with the Catholic Church. We value our partnership with numerous faith-based organizations, including the Conference of Bishops.

Over the last three years we have awarded some \$650 million to Catholic-affiliated organizations. For instance, we partner with Catholic Charities of Los Angeles to provide shelter to runaway and homeless youth; the Catholic Charities of Hartford, to help fathers become better parents and provide for their children; the Catholic Missions Board to provide care and treatment for HIV patients in South Africa, South Sudan and Haiti.

Recently, I visited a home in Chicago. I had conversations with eight young women ranging in age from 12 to 21. They recounted their stories -- horrific -- of being enslaved for one-to-three years. Their stories were horrific, but what was even more unsettling was the aftermath. Young women broken down physically, morally, spiritually, wondering who they could trust and how they would survive.

But these women opened up. They explained how a safe place and advice from people they trust had altered the trajectory of their lives. And I was heartened. They're struggling to restore their hope and their dignity, and I believe that we need to provide them the full array of services so that they have a fighting chance.

In conclusion, Mr. Chairman, I'm confident that the three grantees will help to ensure that the victims of human trafficking will receive high quality case management services. We are fully respectful of this committee's jurisdiction, its responsibility. We have provided, to date, approximately 3500 pages of documents. We are still in the process of working with staff. We will continue to do that. As one who is from Florida, which has a totally transparent open-records law, I believe that it's important for your oversight. But I also believe that it's important to get the total picture of how this grant was awarded. Thank you.

REP. ISSA: Thank you.

And I understand, Mr. Negash, you do not have any opening statement prepared or unprepared?

ESKINDER NEGASH: (Inaudible) -- I don't have any additional statement.

REP. ISSA: Would you like to make any statement -- (inaudible)?

MR. NEGASH: (Off mic.)

REP. ISSA: Then, at that -- with that, we'll go to a first round of questioning, and I'll recognize myself for five minutes.

Mr. Sheldon, as I said earlier, I want to focus this committee on the question of predictability of grants based on merit, so let me start with a question. There were three awards out of four applicants: The number one award went to somebody with a 90; the Catholic Charities had an 89; and then you get down into the 70s, substantially lower for the other two awardees.

If you were a applicant or a potential applicant, knowing the grant making takes time and money -- applications; and you were told that there were factors, but that those factors were not -- would not eliminate you; and then you saw that you were dramatically higher than two of the applicants who received it, wouldn't you legitimately question how you make that cost-benefit question ever again? And, again, it's not a question of what the issue was that may have decided this, but it was not a requirement.

In your opening statement, Mr. Sheldon, you said that you believe that full range of services. If you believe it, why is it that HHS didn't -- shouldn't -- didn't say you either provide them or you're ineligible, which wasn't said, but rather: Go ahead and make the applications. It's not going to eliminate you. It's a -- it's a factor.

Well, it's a factor apparently that goes from 89 to 74. I mean, it's a huge factor. And it was never scored, and no one could understand how much better they would have to be -- how much dramatically better they'd have to be to prevent being eliminated. Could you answer that broad -- that narrow question?

MR. SHELDON: I appreciate the question, Mr. Chairman.

And let me articulate that it was very clear in the funding announcement that HHS had a preference for those who would provide the full array of services. And the way the process -- the way the grant process works is --

REP. ISSA: Mr. Sheldon, I'd like you -- I have very limited time. The narrow question is, 74 to 89 is a -- is a -- is a chasm. If you can't explain the chasm, then what I see here is they were dead on arrival and their application, period. The bottom line is, everybody who applied, got it, except the incumbent. And they were at the top of the rating and dramatically higher than the two much less qualified; and that qualification number is an array of service administration and priorities and capabilities.

So the narrow question is, if you're out there applying for grants because you want to help people -- and the Ranking Member said it very well, this is about helping people. This is purely about compassionate people wanting to help people, and administering over sending them for the various services. No services would be provided by these recipients. These were referrals. How do I explain that, in narrow terms -- you know, 20 points? How do I explain it?

MR. SHELDON: If you'll give me a minute. We provided a funding announcement. That is reviewed by --

REP. ISSA: No. No. I'm sorry. You're not answering the question, and I only have a minute and 45. You did not tell them that they could be just a shit-pot better and still not get the award. That has a chilling effect. Everyone on this dais, on both sides, understands numbers.

Now, back to the question. And I apologize for the language, but it is -- this is such a great difference in the numbers -- not between 89 and 90, the top two. If it had only gone to the top one, I'd say, well, it was a photo finish and this preference made a difference. But the two that were unqualified, less qualified by your own scoring system, by career professional civil servants.

As we go on today you're going to be asked again and again, so not on my time, but on additional time, please be prepared to answer why those numbers so dramatically allowed for this. I've seen this in decision making on refuelers. I've seen it in decision making on green energy. I want to have it explained today.

Having said that, I want to go on to the core question here for a moment. Isn't it true that Catholic Charities refers -- and all of the administrators refer people to physicians, and that those physicians are completely free to provide the full range of benefits, to advise people on the full range of benefits? In other words, the referral to the compassionate person providing a service, including medical and psychological, those people are not nuns or Catholic priests, they're not definable by any of this criteria that you used for the parent administrator.

So what -- and even in your opening statement you made it clear that these -- the recipients, the actual doer of the good might, in fact, still be some of these same faith-based organizations. So the question is: The referral to people to make these decisions -- including STDs, which you mentioned, obviously the need for treatment, and the possible additional procedures, including abortion, including referral for contraceptions and so on -- was there any prohibition on those doctors and those professionals?

MR. SHELDON: To your first comment -- to your first question. The reviewers identified strengths and weaknesses in all the applicants. And they also indicated in their reviewers notes that there was not sufficient detail with all of the applicants in order to evaluate several components. Those were components in terms of monitoring their subgrantees, training, the full array of services. Those were weaknesses that were identified in every single one of them, including the Bishops --

REP. ISSA: I guess that, that's the reason that nobody got 110 rating.

MR. SHELDON: -- and the scoring was based on those reviewers' comments.

Based on the information we had from reviewers, which indicated there was not sufficient detail on several of the issues, we went back -- and that was my decision -- let's go back to all of the applicants to provide the answers to the questions that the reviewers identified. In looking at that, and looking at the scoring, it I was my opinion that all of the applicants were qualified to administer the grant, which brought us to the decision of whether to apply the preference or not.

I made a determination that it was appropriate thing to do, because even the reviewers' comments indicated -- two of the three reviewers indicated that the unwillingness of the Bishops to agree to provide the full array of services raised questions as to whether they could meet the six objectives of the funding announcement.

REP. ISSA: OK, as I recognize the Ranking Member, I think I heard that: a 90, an 89, a 74 and a 69 rating, under this non- partisan decision-making process, were made to be equal.

MR. SHELDON: They were made -- those scorings were made prior to the answers being submitted, which the reviewers had indicated needed to be answered.

REP. ISSA: With that, I recognize the Ranking Member.

REP. CUMMINGS: Thank you, Mr. Chairman.

REP. ISSA: And if you don't -- without objection, I'd ask that the Ranking Member have seven minutes. I apologize. Our time ran over.

REP. CUMMINGS: Thank you, Mr. Chairman.

REP. ISSA: Thank you.

REP. CUMMINGS: Mr. Sheldon, let me ask you some basic questions. In the announcement for these grants, HHS stated explicitly that the central purpose of this funding is to provide, and I quote, "comprehensive case management services," end of quote, to victims of human trafficking. Is that correct?

MR. SHELDON: Yes.

REP. CUMMINGS: In the same announcement, HHS also stated that these services include, and I quote, "family planning services and a full range of legally permissible, gynecological and obstetric care," end of quote. Is that correct?

MR. SHELDON: That is correct.

REP. CUMMINGS: The three organizations that received grants from HHS were all able to make these referrals or have their subgrantees make them. Is that correct?

MR. SHELDON: That's accurate.

REP. CUMMINGS: But the Bishop -- and this is important -- but the Bishops stated explicitly in their application that, if they received this grant, they would not, and I quote, "provide or refer for abortion, sterilization or artificial contraceptives." Is that right?

MR. SHELDON: That's -- that's accurate.

REP. CUMMINGS: It seems pretty simple: The Bishops would not provide the referrals described in the grant announcement, and they didn't get the grant. In other words, you were contracting for something, and they said they couldn't do it. Is that right?

MR. SHELDON: That is accurate.

REP. CUMMINGS: Now, in their application, the Bishops offered to consider, and I quote, "alternative ways to perform these referrals under the grant." Is that right?

MR. SHELDON: That is accurate. And I went a step further.

REP. CUMMINGS: So you followed up on that.

MR. SHELDON: And followed up on that, and asked them to explain in detail what that alternative would be, because we were interested in that.

REP. CUMMINGS: OK. So you were trying to do everything you could to make sure that you were being fair to them. Is that right?

MR. SHELDON: Yes, that's accurate.

REP. CUMMINGS: And did they ever provide you with that alternative information?

MR. SHELDON: The information that they came back with as an alternative was a restatement of their original position.

REP. CUMMINGS: So, in other words, they didn't bring anything new to you?

REP. CUMMINGS: That's correct.

REP. CUMMINGS: Did you then follow up on that and say, well, wait a minute now, I thought you said you were going to bring me something new, and it looks like we're rehashing the same thing?

MR. SHELDON: We did the one follow-up.

REP. CUMMINGS: And that was it. In fact, you documented all of this in your decision memo, which has been made available to every member of the committee.

The memo explains that HHS asked the Bishops if they had any specific proposals for alternative ways to provide these referral services, but the Bishops, and I quote, "did not offer any proposals." Is that correct?

MR. SHELDON: That's accurate.

REP. CUMMINGS: Now, as I said in my opening, I think we would all benefit from hearing a more detailed explanation of why victims of human trafficking and sexual exploitation often need exactly these kinds of referral services. Mr. Sheldon, can you explain generally these victims' age, background and experiences?

MR. SHELDON: Approximately 70 percent of these victims are women. Approximately 80 percent of the females who are victims are victims of sex trafficking. These are individuals who've experienced the most horrific conditions. And they're freedom, for all practical purposes, has been taken away from them. What we're desirous of doing is restoring the freedom that's been stolen from them. It, frankly, is not much more complicated than that.

REP. CUMMINGS: And can you explain why it's so important for these victims to have access to referrals for the full range of family planning services? Obviously, they didn't get the grant, and according to what you're saying, it's because there were certain services that they said they couldn't do. Am I right?

MR. SHELDON: That is accurate.

REP. CUMMINGS: And so, now, this is -- this goes to the basic points in this hearing. What was it that they needed, that you were trying to get for them, that the Bishops were not able to provide?

You were -- you put out a contract; and basically you're saying, this is what we need. They said, we cannot do certain servicing -- services. And so they didn't get it. But the question becomes, why did they need what you were contracting for? Do you follow me? And why was that so significant?

MR. SHELDON: Well, even the reviewers pointed out that the unwillingness of that applicant to provide the full array of options quite -- raised questions as to whether they could provide a response to the six objectives outlined in the contract.

But let me point out -- I think that, you know, the chairman, frankly, has put his finger on it. The restriction was not that they were unwilling to refer to a physician, but restricting what that physician could do. And that is a concern that I have. Ultimately, if you're referring for case management, or if you're referring out to a medical provider, a decision ought to be between that medical provider and the victim.

REP. CUMMINGS: In reviewing some of the various data, there was a 17-year-old victim from Chicago, Angela (sp) -- and her name was Angela. And Angela believed that the older boy who offered her a ride to school really liked her. Angela never thought he would sell her on Craig's List; forcing her to have sex 10 times a night in hotel rooms in six cities across the United States, and beat her with belts and chains when she didn't earn enough money.

Mr. Sheldon, how frequent is it that captors will move from city to city like this?

MR. SHELDON: I've heard that story time and time again.

REP. CUMMINGS: So you hear that a lot, huh?

MR. SHELDON: I do. And you will hear that same response from law enforcement.

REP. CUMMINGS: Now, Angela reported -- reportedly escaped her trafficker and was helped by a group that found her immediate shelter, provided her food and assisted her in finding long-term medical and legal support.

Next is a story of a young lady who was trafficked by a man who pretended to be her boyfriend. He held her inside hotels for a period of eight months, where she was forced to have sex with 10 to 15 men a night, and giving every penny she earned -- she had to give every penny she earned to the trafficker. Through a police raid, Clara (sp) and another young female victim were rescued. Clara was extremely distraught to discover that she was pregnant, because she knew that the baby would belong to any of the hundreds of men who raped her, or even perhaps to the trafficker himself.

How often do you hear stories like that?

MR. SHELDON: I've heard stories in Florida, when I was chairing the task force there, from victims themselves. I currently serve on the special operating group at the federal level, where I've heard those stories from law enforcement -- federal law enforcement agencies as well.

REP. CUMMINGS: Thank you very much. I see my time is up.

Thank you, Mr. Chairman.

REP. ISSA: Thank you.

We now go to the gentleman from Utah, Mr. Chaffetz, for five minutes.

REPRESENTATIVE JASON CHAFFETZ (R-UT): Thank you, Mr. Chairman. Thank you for holding this hearing.

Our colleague, the gentleman from New Jersey, Mr. Smith, has done exceptional work on this. He spent a lot of time and effort, and I appreciate that. I'd like to yield my time to him.

REPRESENTATIVE CHRISTOPHER SMITH (R-NJ): I thank my good friend for yielding.

And I want to thank Chairman Issa for including me on this panel and for calling this extraordinarily important hearing.

Mr. Chairman, a little over a decade ago I authored the Trafficking Victims Protection Act of 2000, the landmark law that created America's comprehensive policy to combat modern-day slavery. Among its (many mutually- ?) enforcing provisions designed to prevent trafficking, protect victims and prosecute those who reduce people to commodities for sale -- the three Ps -- my legislation established the Health and Human Services grants program under review today. For over a decade we have achieved an amazing left, right religious secular, bicameral, bipartisan consensus, unified in combating sex and labor trafficking at home and world wide without promoting abortion -- until today.

In what could only be described as an unconscionable abuse of power, the Obama administration has engaged in what amounts to bid- rigging, denying taxpayer funds to a demonstrably superior organization, the U.S. Conference of Catholic Bishops, with an exemplary 10-year track record of performance, that scored significantly higher in independent HHS reviews than two of the three NGOs that got the grant. The Obama administration's discriminatory practice of funding NGOs that provide or refer for abortions, even when they fail to win a competitive process, is not only unjust, unethical and in violation of conscience clause, but is severely -- will severely undermine public and congressional confidence and support for what it otherwise a laudable program.

If you are a Catholic or other faith-based NGO, or a secular organization of conscience, there is now clear proof that your grant application will not be considered -- and Darrell Issa, the chairman, got to this in his question -- under a fair, impartial and totally transparent process by the Obama administration. The Obama administration's bias against Catholics is an affront to religious freedom and a threat to all people. Let us not forget that the independent HHS reviewers found that the USCCB, the Catholic Bishops' proposal, to be -- and their group -- one of the most experienced experts on human trafficking, a comprehensive system in place that has assisted thousands of victims, demonstrated strong partnerships by engaging with both faith-based and non-faith-based organizations.

And yet the Catholic organization was discriminated against solely because it fundamentally respects the innate value and dignity and preciousness of an unborn child, and refuses to be complicit in procuring his or her violent death by abortion. Even though HHS reviewers gave the USCCB a score of 89, compared to 74 for Tapestry and 69 for the U.S. Committee on Refugees and Immigrants, USCRI, the latter two got the contracts. Although HHS has thus far prevailed -- all of the relevant documents, we do know that the USCRI's proposal lacked detail on key program areas. Here's what the reviewers said: The overall level of detail in the proposal is insufficient to ensure that the project will be established and run in an effective level, and that the management plan is credible and comprehensive. There is a complete lack of information on specific activities, and a timeline is vague, inhibiting evaluation of their reasonableness.

That's not me talking; that's the reviewers. They had real serious problems about the competency of that proposal. Why go through -- and, again, Chairman Issa has referred to this -- the charade of determining whether or not a grant application is meritorious when preferential treatment is afforded only to those in sync with President Obama's abortion-promoting agenda.

The bottom line is this: Pro-abortion favoritism embedded in this egregiously-flawed process does a grave disservice to the victims of trafficking. Victims deserve better. The women and children who have been exploited by modern-day slavery need our help, and that's why I wrote the law in the first place.

I have a number of questions when we get to the second round, Mr. Chairman, but I would like to ask -- and maybe Mr. Sheldon will get to this -- did Secretary Sebelius or any other high official at HHS convey in any way, including by memo, email, letter, messenger or the spoken word, that the USCCB should not get the grant? And if so, how was that conveyed? Exactly why was the USCCB not funded, given that they scored so much higher by the reviewers?

And then, on the performance of the grant -- I'm out of time; and maybe you'll get to this; I will ask on the second -- how are the others doing? Has there been a gap in service? We're concerned about these victims. I deal with the victims all the time --

REP. ISSA: The gentleman from Utah's time is expired.

But if you'd like to --

REP. SMITH: I thank the Chairman.

REP. ISSA: -- if you'd like to answer as to how the awardees are doing, you're certainly within your right.

MR. SHELDON: I appreciate that. The awardees -- the grantees, in this case, are ahead of where the Bishops were five years ago, in terms of bringing on subgrantees.

And, frankly, I want to compliment the Conference of Catholic Bishops because they have been extremely cooperative in this transition. I've met with them and with their director of social services who indicated that their chief responsibility were these victims -- and that is ours.

If I might, Mr. Chairman, I would like to speak to strengths and weaknesses. The weaknesses that you identify are an accurate reflection of what reviewers commented. But the reviewers made comments on strengths and weaknesses in all of the applicants. For instance, in USCRI they said they had considerable experience managing large refugee and trafficking projects; in the USCCB they indicated weaknesses because the proposal lacked detail on shelter models, residential facilities, community-based services, community outreach programs.

So the point I'm making is that you have to take the reviewers' comments in the totality of what they said; and also in the comments on all of the applicants, including the U.S. Conference of Catholic Bishops, that the application lacked sufficient detail. That is the very reason we went back and asked the --

REP. SMITH: With respect --

REP. ISSA: No, the gentleman's time has expired.

REP. SMITH: The scores don't --

REP. ISSA: The gentleman from Maryland, Mr. Cummings, is recognized for five minutes. Oh, I'm sorry. I got you.

REP. CUMMINGS: (Off mic.) I'll take it -- (chuckles).

REP. ISSA: I'd give you a second one, but I'd have to take it away from the former chairman of the full committee, Mr. Towns.

REPRESENTATIVE EDOLPHUS TOWNS (D-NY): Thank you very much, Mr. Chairman. At least we cannot say at the moment that you're not fair. (Chuckles.)

REP. ISSA: Hopefully, you'll never say -- have to say I'm not fair. (Chuckles.)

REP. TOWNS: Let me -- first of all, you know, I chair the Social Work caucus, so I'm very interested in this.

You know, I agree with those who believe that in order to analyze these grants in a responsible manner, we should not ignore the voice of trafficking survivors. That is why I hope we will have another hearing and bring in victims. So I would like to use my time mostly to read an account from one survivor. We received this account from an advocate working for the Coalition to Abolish Slavery and Trafficking. She has asked us to keep her name confidential, and that I will do. This is what she said:

At the age of 13, I was kidnapped by a pimp, drugged and held in a room for five days while a seemingly never-ending stream of men entered the room, raped me and left the room again. None of them wore a condom. None of them were carrying papers from a clinic proving they were disease free. I had no idea what was happening to me. I had just turned 13 and was from a small town in Illinois.

I'm not even sure I quite knew what a pimp was. I just knew that there was a big guy who seemed to be in charge of everything, and when I tried to leave the man, the pimp became violent and forced me back into the bedroom, and then the parade of men would start all over again.

But I was lucky -- far luckier than most girls who come under control of a trafficker. Against the odds, I escaped within a week. But the impact on my body and mind lasted much longer. I received no reproductive or gynecological medical care after experiencing those many days and nights of serial rape by unknown men.

As a result, I became gravely ill. At 15, I took myself to an emergency room. I just could no longer stand the pain. I was admitted, tested, and told that my kidneys were shutting down, and a lot of rest and IV antibiotics, I got better for awhile.

My question is simply this, Mr. Sheldon: How important is it, when we are reviewing these grants, to hear the voices of the victims? How important is it?

MR. SHELDON: I think it's critically important if we're going to responsibly deal with this issue.

REP. TOWNS: Well, how much -- I mean, do you really put a lot of time and weight on this?

MR. SHELDON: You cannot go to a home, as I went to in Chicago for those eight young girls, and hear the stories of what they've gone through and not have an extreme amount of passion and compassion. And it is -- it will be, you know, in talking to -- it will be a huge battle for them to overcome the psychological, the physical and the emotional trauma that they've experienced. And that's, you know, the reason that we've tried to seek out grantees that will allow these individuals to regain their decision-making power.

REP. TOWNS: Mr. Chairman, I really look forward to another hearing where we can bring in the victims and to hear from them, because I think we need to really get to the bottom of it. I notice, in terms of Mr. Smith has done some work, but Mr. Smith, let us not get into the blame game. This is too serious to blame. We need to work together to make certain that we put an end to these young people being destroyed.

So I want to you so much, Mr. Chairman. I yield back.

REP. ISSA: Would the gentleman yield?

REP. TOWNS: I'd be delighted to yield to the Chairman.

REP. ISSA: I will assure you that our committee staff are working right now on what might be a hearing that is much more focused on the issues, that I've worked on in the past under Judiciary, that Mr. Smith has worked on, and that you're expressing here today -- the trafficking in human beings; and whether or not, on a broad basis, because as you know as former chairman, our committee has -- generally, we work on the bigger issues, not the issues that belong to one committee. So whether it's through the State Department, Health and Human Services, even military personnel, the question is, "are we doing enough, and are we dealing with it in a comprehensive way," is one that I believe is within the committee's clear jurisdiction, one, because it falls between the cracks of many different programs, not just the one we're looking at here today.

So that is being worked out right now between the committee staff. And it's something that I know Mr. Smith will be back again -- I have no doubt -- that when it comes to this issue, he's very passionate, and I believe will meet your satisfaction. Yield back.

REP. TOWNS: Thank you very much, Mr. Chairman. That is very, very encouraging.

REP. SMITH: (Off mic.) Would the gentleman yield, please?

REP. ISSA: Would the gentleman further yield?

REP. TOWNS: I'd be glad to yield.

REP. SMITH: I thank my good friend for yielding.

I just want the record to show that, since the late '90s, I've chaired well over two dozen hearings on trafficking issues, not just on the legislation, but we heard from witness after witness, domestic and international, and it does make one really sharpen the focus on ensuring that we do all things possible to help those victims.

REP. ISSA: I thank all the gentlemen.

The gentleman's time is expired.

We now go to the gentleman from Michigan, Mr. Walberg, for five minutes.

REPRESENTATIVE TIM WALBERG (R-MI): Thank you, Mr. Chairman.

And I thank the panel for being here, and I thank you for the work that you have been given to do, and that you attempt to do. It is worthy work.

I grew up on the south side of Chicago. I pastored churches and, in fact, dealt with women victims in situations like this myself. My daughter deals with victims in similar situations in Kampala, Uganda -- in a third-world country, with victims all around.

I find it very discouraging, frustrating and saddening to sit here in a first-world country, a nation that vested itself with the responsibility of leading the world in freedom and democracy, and safety and security, and rights for all -- men, women, children; a nation built on Judeo-Christian values, whether we like it or not, that was what we were built on, and this country succeeded in such great ways as a result of those values -- values that, indeed, saw victimization as wrong, absolutely wrong and unacceptable; but a nation, up until just recent years, saw the full aspect of victimization to include every part of that process, including the most innocent victim, a victim that had no choice, a victim that has become a product of victimization, and that's the unborn child as well.

You've got an amazing responsibility, but a responsibility I think that, at present, is neglecting to consider the further victimization that goes on. And there will be arguments about that, but there are huge tomes of evidence showing that further victimization of a woman -- in this case, in human trafficking -- to have a child victimized as well adds to that victimization in the future.

And so when I hear that, apparently, one supplier of assistance to these victims of human trafficking is left out, is cut out of the mix and opportunity to provide ministry to the soul, the body, every component part of that victim -- the woman, the young girl who is put in this heinous situation -- and yet we forget about further victimization of her and the victimization of a little unborn, that's a concern to me as well.

There are five pieces of information that must be documented, as I understand it, in approving funding: one, position of the grant application ranking; two, reasons for any changes in the order of ranking; three, if there is no rank, then a statement for why funds were given; four, documentation as to the reason in the change of rank; and five, any conditions associated with the grant.

I just wanted to follow up on the second of five mandatory documentations that you're required to give: If the application's position in the list of applications approved for funding is different from its position on the ranking list, a statement of the reasons for the difference that influenced this judgment of the approving official must be included. This should include justification for funding of a particular application.

First of all, was the Catholic Council (sic) of Bishops' position on the list of ranking approved for funding different than its position in the ranking?

MR. SHELDON: First of all, let me thank you for the passion --

REP. WALBERG: There is passion there, but let me get your answer here, because I'm running out of time.

MR. SHELDON: -- and it is one we share.

I believe, yes, that we clearly -- we've clearly met the requirements of number two, that you've identified, as the reasons why we exercised the preference.

REP. WALBERG: Well, let me go further then, and go back to a question by Congressman Smith. Was this statement of reason reviewed by anyone outside of ACF? For instance, did anyone on the sixth floor of HHS review this decision? And more specifically, did Secretary Sebelius -- a strong opponent of life and a supporter of abortion on demand -- did she review this?

MR. SHELDON: This was a collaborative effort. I consulted with other policymakers within the agency, our Office of General Counsel. I did not consult with Secretary Sebelius. I did meet with her and inform her of the decision that I had made.

REP. WALBERG: Was Sharon Pratt (sp) -- the counselor of human services, is she the one you referred to?

MR. SHELDON: Yes. She was involved, as part of many people involved, in looking at this policy decision.

REP. WALBERG: My time is expired. I thank the Chairman.

REP. ISSA: I thank the gentleman.

We now recognize the gentleman from Massachusetts. Am I correct? The gentleman from Massachusetts for five minutes.

REPRESENTATIVE JOHN TIERNEY (D-MA): Thank you.

I mean, clearly this seems to be a discussion about whether or not our policy is going to allow the doctor and the victim to make a determination of what services are best needed for medical care, as opposed to having the government limit those choices on that.

And I think -- there was an editorial in the Los Angeles Times, "When Faith is a Barrier to Care," and I just want to read a couple of excerpts from that:

"The Roman Catholic Church and its affiliated nonprofit organizations have every right to hold true to their religious convictions while doing good works. But when a nonprofit, religious or not, is carrying out the government's work with government money, it must do so on the government's terms. It should go without saying that the victims of sex crimes must be offered all possible services related to reproductive health, and there is nothing discriminatory about requiring all applicants to meet the agency's specifications."

"It is the government's job to determine which services will or will not be offered under public programs. Clients of government-sponsored services should not receive significantly different levels of service depending on which organization they happen to be assigned to. Faith-based groups that want a share of government grants and contracts must be willing to do all the work the government outlines, not just that, that conforms to their religious doctrines."

I think that's a pretty fair statement.

But Mr. Chairman, in your opening statement I was concerned when you suggested that Health and Human Services has some sort of a litmus test when you said that Catholics need not apply. I was brought up as a Catholic and I would be seriously offended if I thought that what you said was true --

REP. ISSA: Would the gentleman yield?

REP. TIERNEY: I think we should all be concerned. Please.

In my opinion, that's a very unfortunate statement for you to have made, a very unhelpful characterization. And I don't think it's supported at all by the evidence in this situation, and I want to talk to Mr. Sheldon about that.

Some characterization is made that the decision not to award the Bishops this particular grant is somehow discriminating against the entire Catholic Church. In fact, the title of today's hearing frames Health and Human Services as being in conflict with the Catholic Church. So I want to give you an opportunity to address that directly.

Earlier this year, press accounts reported that Health and Human Services awarded the Bishops a \$19 million grant to help foreign refugees in America. Now, I think that roughly would be seven times the amount that they requested in the grant we're talking about today. Is that correct?

MR. SHELDON: That is correct. As a matter of fact, that award was made four days after the decision was made on this particular grant.

REP. TIERNEY: And in fiscal year 2011, the Bishops received a total of \$32 million in grants from Health and Human Services alone. Is that correct?

MR. SHELDON: That's accurate.

REP. TIERNEY: And in your testimony today, you said over the last three years Health and Human Services has provided more than \$650 million to Catholic organizations. Is that correct?

MR. SHELDON: That is accurate.

REP. TIERNEY: Well, a lot of people would probably like to be discriminated against like that. That includes numerous grants to the Bishops, to various Catholic charities and to other Catholic organizations across the country. Is that right?

MR. SHELDON: Yes.

REP. TIERNEY: So Mr. Sheldon, has Health and Human Services awarded Catholic organizations more or less money in the last three years than in the previous three-year period under the Bush administration?

MR. SHELDON: I can't speak with absolute certainty, but I believe we've actually expended more.

REP. TIERNEY: And do you view the U.S. Conference of Catholic Bishops as a continuing partner in the fight against trafficking?

MR. SHELDON: There is no question about it.

REP. TIERNEY: So, Mr. Chairman, I think, you know, based on this information, that the grant funding to Catholic organizations and entities has greatly increased under the current administration.

That would contradict the whole premise -- the underlying premise of this hearing, that somehow this administration is politically predisposed against working with Catholic organizations. And I think it brings us back full-cycle, that this is really an issue about whether or not victims will get a full range of health care services, or we'll try to somehow limit that on that. And so I --

REP. ISSA: Would the gentleman yield?

REP. TIERNEY: -- your contention has been accurate here, and I think the administration is doing more with Catholic groups, not less.

REP. ISSA: Would the gentleman yield?

REP. TIERNEY: Certainly.

REP. ISSA: Hopefully, to make the record complete, the question was more narrow than you may have -- or nuanced than you thought, and this hearing's question is more nuanced.

What we're looking at is the question of: should -- if this was an edict, if this was a requirement that the full range of reproductive services was a mandate in order to be awarded this contract, we would be -- we wouldn't be having this hearing, because it would have been clear within the spec that, as you said, what should be, in your view, a requirement was not a requirement. And that's -- that's the reason we're having the question --

REP. TIERNEY: Reclaiming my time, Mr. Chairman.

That's certainly the ostensible purpose of this hearing, but not what I perceive to be the actual purpose of this hearing. Because I think the evidence is more than clear that this was done in a process that was open, where applicants were made perfectly aware that this preference existed, and where the process was done in the right manner. But I think the underlying argument, again, is whether or not a victim is going to have their health care services limited or not.

I yield back.

REP. ISSA: I thank the gentleman for -- I thank the gentleman for his comments, although the prerogative of the chair is not to state one reason and have another. This hearing is narrow and it is based on exactly what I said it was. And I hope the gentleman did not mean to imply that the chair is being either disingenuous or outright lying as to the purpose of this committee hearing. For that, and we now go to the gentleman from Oklahoma, Mr. Lankford, for five minutes.

REPRESENTATIVE JAMES LANKFORD (R-OK): Thank you.

Thank you, Mr. Sheldon, as well for being here.

Mr. Negash, thank you for being here.

Had the U.S. Conference of Catholic Bishops received a low ranking from the previous years of service?

MR. SHELDON: They performed -- they provided a strong performance under the requirements of the contract that they had.

REP. LANKFORD: OK, so they had not received, you know, bad marks, bad rankings; complaints from victims coming in saying that, we didn't get the proper care?

MR. SHELDON: No.

REP. LANKFORD: I noticed, as I went through the documents here from some of the reviewers, that there were frequent comments about how they covered all six areas, and how they were able to provide a national focus on that. Had abortion been a criteria before in the provision of abortion, in the recommendation of abortion? Was that a previous -- in the 2006 release of all the grants, was there a statement there to say you need to provide abortion and contraceptives?

MR. SHELDON: The issue of providing referral to the full range of gynecological services was not included.

REP. LANKFORD: It's not just full range of gynecological services, because Medicaid has 200 different areas. So is there -- is there something in that 200 areas for Medicaid, of the full range of gynecological services, that you would look at and say, this, this and this? Are there 50 of those that they don't provide? Are there 10 of those? Or is this just abortion?

MR. SHELDON: Well, I think the question was: What was in the previous contract?

REP. LANKFORD: Correct.

MR. SHELDON: And the previous contract did not refer to the issue of gynecological --

REP. LANKFORD: Right, but I hear you using the term "the full range of care." But it's really not full range of care, because there is a provision for full range of care with the exception of abortion. And even when the abortion provision -- you know, if -- there are -- there are issues even within that. Is that correct?

MR. SHELDON: The Catholic Bishops also indicated an unwillingness to provide family planning services.

And since you were quoting reviewers' comments, the reviewers indicated that: USCCB states it does not intend to provide any family planning services, which is important to sex trafficking. As such, USCCB may not be able to sufficiently accomplish all six objectives of the program.

REP. LANKFORD: Right, and then they ended with the document with this statement: I recommend approving the grantee for \$2,500,000.

To lower grantees, did their grantees end with this statement, "Application not recommended for funding?"

MR. SHELDON: The document that you're referring to, as has I have never seen. I've heard about it in the last couple days --

REP. LANKFORD: OK, well, we had obviously requested the documents -- we had not seen either until just last night.

And going through these documents -- I know you mentioned there are strengths and weaknesses listed on all of them, but the others don't end with the statement "application not recommended for funding."

It's especially interesting to me in this process, because I looked through there, there's a preference obviously for, you know, the different regions, and nation wide. The Catholic Conference, they -- they're nation wide.

The only other nation-wide was the USCRI, who received a score of 69. They were funded. Now, I've got to tell you, that's a gutsy score considering sitting next to you is the director of ORR, that's involved in this, who previously was the COO of USCRI. So those recommendations -- they knew this was going to go up to his desk, (who ?) obviously -- you're going to recuse yourself from the decision process. But someone involved in the process -- I mean, that's just a gutsy thing to do, is to say: I recommend this group over this group, and I know their boss -- used to work for the other group, and obviously has a priority for that.

So somebody that has 20 points lower in a grant scoring gets the award than someone who had it 20 points higher. There's just a million issues in the middle of all this to say -- if the clear issue is, if you can't -- if you can provide great care in every area for human trafficking, except abortion, we don't accept you. If you care in all six areas, you have great expertise, you have great skills, but if you don't do abortions, we won't do this.

Now, the considerations are frequent. You know very well, from working with victims of human trafficking, they often fall right back into it again. They're identified; then there are repeats, and they steal them off to other cities, and you have all kinds of issues and care for that. So at times you're taking a victim of human trafficking who's now pregnant; get them an abortion; they can immediately be snatched back up, taken to another city; and you've just put them right back in that situation again.

So to say if a person is raped in the human trafficking situation, the best thing we can do is get them to an abortion -- and so the possibility of them to get right back on the street; and if you don't do that, we won't let you help in any of these areas and walk alongside you in this, to me, is a very strange mark. You can help in all six of the comprehensive areas, but if you don't do abortion -- specifically not just a lot of them, but promote them -- if you don't promote abortions, then we won't let you help. That's the concern here.

Eighty-nine to 69 is a pretty wide spread. "Did not recommend for funding" is a pretty strong statement to then reverse that and say, no; you're going to get the preference.

REP. ISSA: The gentleman may respond if he would like to.

MR. SHELDON: Two observations. One is that document was never brought to my attention. Secondly, when I understand that document was written, that was prior to the responses which were -- which we requested from the applicants, which had been in direct response to the reviewers' comments that there was not sufficient detail in all of the applications.

REP. ISSA: (Off mic.) Same day. For the record, they were written on the same day, September 9th. So you may want to check the timeline that it appears -- as they occurred.

Additionally for the gentleman, just to clear the record, Mr. Negash is the former head of that organization. And the person that is in -- was previously Mr. Negash's individual predecessor is now the head. So -- (inaudible) -- it is a close relationship; that basically the two switched places, between that agency and the government, and the government and that agency. But Mr. Negash did recuse himself.

With that, we recognize the gentleman from Virginia for five minutes.

REPRESENTATIVE GERALD CONNOLLY (D-VA): Thank you, Mr. Chairman, and thank you for having this hearing.

I must say that, listening to some opine on this subject -- not here, of course -- one is a little alarmed that some would become a latter-day Torquemada, willingly reinstating the Inquisition, only this time against the secular state. No member of this committee or of the body -- the Congress, can purport to speak for the Catholic Church or for all Catholics. And I say that, respectfully, to my colleagues as a Catholic.

We may actually, in a pluralistic society, as Catholics, have different points of view. And I would hope that difference, in a pluralistic republic, would be respected. We can disagree, but the idea that dissent and disagreement are to be somehow suppressed is not America, nor is it the American Catholic church in America, as I understood it growing up as a Roman Catholic, who went for many years through college as -- in Catholic education. So nobody speaks for me as an American Catholic, and especially in a pluralistic society where we are trying to grapple with serious issues.

Now, I hope this hearing is the narrow scope the chairman has said, but I am alarmed that the minority was denied witnesses.

I am alarmed that new documents at the last minute are entered into the record -- not shared with the minority, but in the possession apparently of the majority for some time.

I am alarmed when people use hyperbolic rhetoric, which might suggest to some -- certainly not to me -- that actually the purpose of the hearing, as Mr. Tierney suggested, is to try to smear the Obama administration with a label that, if true, would be very disturbing. And as a Catholic, I'd like to believe it is not true. In fact, there's plenty of prima facie evidence that it is not.

I reiterate, the question, Mr. Sheldon: Did you say that, in fact, in the last several years, \$650 million has gone through your agency alone to Catholic entities in America? Is that correct?

MR. SHELDON: In the last three years.

REP. CONNOLLY: And Mr. Negash, you're in the refugee business. I assume Catholic Relief Services is a recipient of federal money for refugees' resettlement and care?

ESKINDER NEGASH: That's correct.

REP. CONNOLLY: Could you speak up. We can't hear you, sir.

MR. NEGASH: That's correct.

REP. CONNOLLY: Any idea about the amounts?

MR. NEGASH: I believe that, within the Office of Refugee Resettlement, the Catholic Bishop(s) received more money than any other grantee.

REP. CONNOLLY: More money than any other grantee.

MR. NEGASH: I believe so.

REP. CONNOLLY: And would it also be true that CRS would be -- which is a wonderful organization, I've worked with it in my past -- is also the recipient of AID dollars, and P.L. 480 Food-for-Peace dollars, and commodities.

MR. NEGASH: I'm not sure what kind of --

REP. CONNOLLY: Take a guess.

MR. NEGASH: -- (funding we have. ?)

REP. CONNOLLY: Yeah, I think the answer is a big yes.

So the idea that there's some systematic attempt to -- a bias implemented against the Catholic Church or Catholic entities is a libel and not true.

In fact, is it not true, Mr. Sheldon, just from your agency alone -- I think, maybe a few others -- that the Obama administration has provided a hundred million more dollars to Catholic entities than the Bush administration.

Is that correct?

MR. SHELDON: From what I've seen, it is, but I can't speak with --

REP. CONNOLLY: And did you testify to Mr. Tierney that, as a matter of fact, your agency, after making the decision about this grant, actually awarded subsequent grants to the Catholic Bishops?

MR. SHELDON: That is accurate. Nineteen million (dollars), four days --

REP. CONNOLLY: OK, so we've pretty much put to rest whether there's a Catholic bias in this administration. There isn't.

But the second -- the second concern I've got is, what is the -- what is the mission here of this grant award? It's to service victims of sexual exploitation against their will. Is that correct?

MR. SHELDON: A substantial portion of those individuals who are victims of trafficking --

REP. CONNOLLY: And is it true that the average victim is first victimized somewhere between the age of 10 and 14?

MR. SHELDON: The numbers I've seen indicate -- personally, I know of victims as young as 12.

REP. CONNOLLY: And did you indicate that one of the needs they have is family planning services -- the wide array, including contraception, prevention and treatment of sexually-transmitted diseases that obviously, unfortunately, tragically come with the sexual exploitation. Is that correct?

MR. SHELDON: That is accurate.

REP. CONNOLLY: And did you indicate that, in this particular case, the Catholic Bishops indicated they would not provide such services?

MR. SHELDON: That is accurate.

REP. CONNOLLY: Irrespective of the mission of the grant?

MR. SHELDON: The issue of family planning services, they indicated they would not --

REP. CONNOLLY: And is that the reason why ultimately, despite their ranking, the decision was made not to give them the grant in this one case, because of the mission involved?

MR. SHELDON: A determination was made that there were three other applicants who were equally qualified, who were willing to provide family planning, the full array of gynecological services.

REP. CONNOLLY: I thank you. My time is up.

REPRESENTATIVE TREY GOWDY (R-SC): Mr. Sheldon, did the Catholic Bishops receive previous grants?

MR. SHELDON: Yes.

REP. GOWDY: And when was that?

MR. SHELDON: The Catholic Bishops had been receiving grants from the Department of HHS for a long period of time.

REP. GOWDY: I mean, specifically with respect to human trafficking.

MR. SHELDON: Yes, they --

REP. GOWDY: Did they receive a five-year contract immediately proceeding this?

MR. SHELDON: They received the contract, I believe, in the year 2006.

REP. GOWDY: Ending in 2011?

MR. SHELDON: That's correct.

REP. GOWDY: All right, was reproductive health not an issue then?

MR. SHELDON: I was not here then, nor was this administration here then.

REP. GOWDY: You didn't take the grant from them in 2010 because of a failure to provide certain reproductive health services, did you?

MR. SHELDON: We extended the contract, as I recall.

REP. GOWDY: Right. And you have no issues with the performance of their contract?

MR. SHELDON: They had a strong performance under the requirements of that contract.

REP. GOWDY: In fact -- and I'll use quotes from your entity: They properly provided case management; high-level of program competence; responsive to the needs of subcontractors, clients and other entities; able to successfully provide trafficking-specific services to clients.

So if they had scored a 92, but still kept to their faith beliefs, would they have gotten the contract?

MR. SHELDON: They can -- they can still be true to their faith beliefs. As a matter of fact, subgrantees of the current vendors are -- have Catholic affiliations and they can remain true to their Catholic teaching.

REP. GOWDY: Well, you said that there were equally qualified subcontractors. Why do you have a point system if you're going to ignore it?

MR. SHELDON: As I indicated in previous questions, the points were applied before we received responses as to the additional detail, which the reviewers indicated they --

REP. GOWDY: Who is Jay Womack?

MR. SHELDON: Jay Womack is director of the --

MR. NEGASH: He's the deputy director of the program.

REP. GOWDY: Did he recommend giving the contract -- the grant to the Catholic Bishops?

MR. SHELDON: I don't know that he made a recommendation, but I can't --

REP. GOWDY: But there was a recommendation made to give them the contract?

MR. SHELDON: As I indicated in the previous question, that document I never saw. I've heard it was around. But that -- but that would have been a recommendation. And that --

REP. GOWDY: Well, and --

MR. SHELDON: -- would have been a recommendation that would be made to policymakers, not career staff.

REP. GOWDY: There are 200-some-odd gynecological services that are included. Did you ask the Catholic Bishops what percentage of those 200 they were willing to perform?

MR. SHELDON: No. We asked them if they were willing to refer -- not perform -- refer to entities that would provide the full range of gynecological services.

REP. GOWDY: All right, and of the 200, how many were they willing to refer?

MR. SHELDON: They did not indicate in their application, or in my request back to them for clarification.

REP. GOWDY: Did you ask the victims of human trafficking whether or not they were satisfied with the performance of the Catholic Bishops?

MR. SHELDON: Well, I was not around to talk to each of the individual victims that were served under this contract at the time. I have talked to other victims who have indicated -- as well as experts in this field -- who've indicated that referral for the full range of gynecological services is an appropriate requirement for these individual who've been victimized, forced into --

REP. GOWDY: So you agree with me that it is dispositive. It's not just a strong preference; it's just not a preference; it's dispositive. Because, the truth be told, if the Catholic Bishops had scored a 100, you still wouldn't have picked them.

MR. SHELDON: That is not necessarily accurate.

REP. GOWDY: Well, would you have, if they'd scored a 100? Is an 89 not enough?

MR. SHELDON: Well, I was dealing with the facts in front of me, not --

REP. GOWDY: OK, well, assume this fact then: If they'd scored a 95, would that have been high enough?

MR. SHELDON: I cannot, without looking at the facts, the other applicants, I cannot respond to a hypothetical.

REP. GOWDY: Well, you can't -- you can't tell me what percentage of the 200 services they were willing to provide or refer. You can't tell me what score would have been good enough to get a contract that they performed successfully on for five years. And that leaves me with the conclusion to draw, based on the evidence, that it is dispositive whether or not you will refer for abortion services. And you deny that?

MR. SHELDON: I do not think that is a good conclusion.

REP. GOWDY: OK, well then tell me what they should have done to get the contract.

MR. SHELDON: The --

REP. GOWDY: Other than -- other than score the second-highest score, be recommended by your own people, and perform well previously, what else should they have done?

MR. SHELDON: Mr. Chairman, I went back to the Catholic Bishops and asked them what their alternative was. They did not provide an alternative.

REP. GOWDY: Well, let me suggest an alternative, because during the litany of things that you say you have given grants to the Catholic Church for, it was also to improve the parenting skills of men. Did you consider giving them a human trafficking grant for only male victims?

MR. SHELDON: I did not.

REP. GOWDY: Did you consider giving them a human trafficking grant for only labor trafficking victims, where there was not sexual abuse?

MR. SHELDON: We did not.

REP. GOWDY: The gentleman from Vermont, Mr. Welch.

REPRESENTATIVE PETER WELCH (D-VT): Thank you very much, Mr. Chairman.

In 2006, ABC News -- I'm sure you remember this, so the "Primetime" premiered a story of a 15-year-old girl called Debbie, from suburban Phoenix. She'd been tricked by a casual friend into getting into a car with two older men.

She was kidnapped from her own driveway. One of the assailants put a gun to her head and threatened to shoot her if she made any noise. And she was taken to an apartment; she was repeatedly gang raped by four men. Debbie's captors then put advertisements on Craig List and were earning hundreds of dollars a night, forcing her into prostitution.

She was forced literally to sleep in a dog crate; remained captive for more than 40 days. She was threatened by her captors that they hurt her family and throw battery acid in her face -- in her 19-month-old niece, if she tried to escape. Eventually, the police found her tied up in a drawer under the bed.

Mr. Negash, I'm asking kind of an obvious question, what psychological and physical traumas are experienced by girls who've lived through ordeals like this? And, unfortunately, Debbie is not the only one.

MR. NEGASH: This issue, for me, has been very, very difficult, simply because I spent almost 30 years of my life providing service to victims. I think whether the victims were trafficked or refugees, you know, it is a life-changing experience. I think, in this discussion I think we need to keep in mind that, ultimately, what we are trying to achieve is to provide the best possible services to the victims.

It is one thing that the victim actually always desire(s) is to have the freedom to choose, the freedom to live independently. I believe the trauma of being a victim, the trauma of being a refugee, and going through a process of being tortured, and raped and humiliated is a traumatic -- it's a life-long trauma. It's a scar that the client will always have that.

REP. WELCH: You know, there was a University of Pennsylvania study that said the average age of girls in the United States that were forced into commercial sexual exploitation was between 12 and 14.

Mr. Sheldon, does the fact that the victims are so young when they are sexually exploited impact the kind of services they need and how you deliver them? And I'd like you to elaborate on that if you would.

MR. SHELDON: There's no question. As I indicated earlier, the eight young women that I visited in Chicago have had such huge psychological scars. It's a lot like domestic violence: You're afraid of your perpetrator, but you're also afraid of the unknown -- "Can I survive outside of this?"

And they -- the hope for the future, their whole self respect, their self image has been entirely destroyed. And that's the reason that I think we feel, as an agency, that providing the kind of effective case management, so that these individuals are given back the freedom that has been taken away from them.

REP. WELCH: And that full range of case management services, how does ensuring that girls like Debbie get referrals for the full range of family planning services that can help them rebuild their lives?

MR. SHELDON: Well, I think that, that's the reason we have case management agencies -- to provide to them the array of options that are out there. Ultimately, it is that victim that we're trying to empower -- it is the victim that will decide what services they will avail themselves of, or what services they will deny.

REP. WELCH: Mr. Chairman, I want to thank the witnesses, and I want to thank the Chairman for the hearing, and yield back.

REP. : (Off mic.)

REP. WELCH: I would yield to Mr. Cummings.

REP. CUMMINGS: I want to follow up on one of Mr. Gowdy's questions.

The other organizations, if they said to you, we will not provide these services, or gave similar language to what the Catholic Bishops did, and I'm just wondering, would they have suffered perhaps the same fate? Are you following my question?

MR. SHELDON: I'm following your question.

It would -- it would depend on what the other applicants -- what the range of options were for the department.

And in this -- in this particular case, we had three other applicants who were competent, and the reviewers' comments indicate had the experience with USCRI -- a hundred years of experience in dealing with refugees and trafficking victims. So it would depend on what our other alternatives were. In this case, we had three qualified alternatives.

REP. CUMMINGS: OK, thank you.

REP. GOWDY: The gentlelady from New York, Ms. Buerkle.

REPRESENTATIVE ANN MARIE BUERKLE (R-NY): Thank you, Mr. Chairman.

And thank you to our panelists for being here this morning and for testifying here.

I am co-chair of the Human Trafficking committee for the Women's Caucus, so this is an issue that's very near and dear to me. And I understand the issue, and the scope of the issue; and I understand -- I've spoken on the topic. I've also -- I'm also a health care professional and spent many years in the domestic violence arena. So what we're talking about here today really, for me, is about the dignity of the woman and the victim.

And I have to say, Mr. Sheldon, that -- and I understand the scope of the hearing, and the Chairman has laid it out and continued to emphasize the point about what we're here to talk about. But I think what concerns me most are your opening comments, and some of the things you said with regard to this issue.

Now, we've agreed, on both sides of the aisle, and you've testified that a lot of these young women and these victims are ages 12, 14. And so one of the things I hear is that we're now going to ask them to make decisions that are -- that's going to compound, and my colleague mentioned, compound the trauma -- life changing decisions. And you're putting them before people who only will think one way.

And you talked about, and I'll quote you, "advice" -- "getting advice from people they trust." So, in my mind, what you're saying is those who don't offer abortion services, they can't trust. What is it about the Catholic Conference that they couldn't trust, that they wouldn't be allowed to be in, and to get that grant? So that concerns me.

I think the biggest concern is the age of these kids, and you're putting them in situations -- they have no idea. They've been traumatized; they're young; they're not competent to make that -- those kinds of decisions. And yet you're only offering them -- given what's happened here, and who's gotten these grants -- you're only offering them one round of choices, and that's that abortion is probably the best choice to deal with your problem.

And that's not fair to that woman, because we don't know -- and I would say, you don't know -- the trauma of abortion, and my colleague mentioned it already, may only add to what she -- the victimization of what she's gone through.

You talked about this -- you specified a strong preference for those who provide this full range of services, and the chairman talked about that. What is the strong preference? I mean, even with factoring in, in the one section about full range of services, the Catholic Conference of Bishops, they achieved that 89 percent score. How do you define a strong preference?

MR. SHELDON: I think I've been talking about that.

But let me articulate that non-directive counseling does not mean that you provide counseling which supports abortion. The question is whether you're willing to lay out for that individual what options they have available. In the case of the Catholic Bishops, there was an unwillingness to provide this option. And I recognize the sensitivity of this.

I also believe that when you're dealing with case management agencies, particularly in the arena of human trafficking, there is a recognition of what the -- what are age-appropriate counseling. There's a recognition of the age of that individual, and the difficulty that a child, as you've indicated, who has been enslaved for, in any -- in cases, a year to three years, the difficulty that child has in comprehending what's happening in their lives.

REP. BUERKLE: My time is clicking down here and I want to make sure -- I just want to get -- because, one of the other things you said is you want to make sure we offer those young victims, those victims, any victim best possible choices and the freedom to choose. And isn't having the Catholic Conference of Bishops, and someone with a proven track record, and someone who has given the whole range of services -- food, clothing, shelter, legal help -- they were recommended to get the grant and you've excluded them.

And so, therefore, I don't think that you've given these victims a full -- a full range of choices and the right to choose their -- the services that they so deserve and they so need.

With that, I'll yield back my time. Thank you, Mr. Chairman.

REP. GOWDY: The chair thanks the gentlelady from New York.

We now recognize the gentlelady from the District of Columbia, Ms. Holmes Norton.

DELEGATE ELEANOR HOLMES NORTON (D-DC): Thank you, Mr. Chairman.

I couldn't agree -- disagree more with the gentlelady -- (chuckles) -- who judges -- who judges the issue by the exclusion of some services from victims.

This is a rare, if not unprecedented, hearing. And I just want to say for the record, this is a hearing about public money. No one is entitled to a grant in the United States, faith-based or otherwise. There is no preference for any group to receive a grant. And, each funding cycle is a new cycle. Public money, in our country, comes from people with many different backgrounds and many different views --

REP. BUERKLE: Would the gentlelady --

DEL. NORTON: They come particularly --

No. I am going to continue.

-- they come continually from people with many different religious views. So there is only one issue here, and that issue, it seems to me, is whether HHS followed or failed to follow the objective procedures for awarding a grant to victims, whoever is the -- whoever is the organization.

I don't see how Congress can be concerned with any but two issues: were the procedures followed; and are we paying attention, first and foremost, to the victims, as opposed to the organizations, which -- who, after all, in our system, are in competition with one another?

So let me go through the processes to see whether any of the procedures were violated, because the majority has suggested that HHS failed to follow its procedures. And I can't -- I can't find it, but I want to -- I want to cross examine you on that view. The only thing I find in the act is a prohibition on organizations that support the legalization of prostitution, and no one has raised that as an issue here, and so I don't think the statute, as such, can be said to have been violated.

So if we look, then, at the internal grant guidelines -- and that's all we're entitled to do -- there is a policy statement that says, and I'm going to quote it, "An advisory review of discretionary grant applications conducted by a minimum of three unbiased reviewers with expertise in the programmatic area for which applications are submitted." The objective reviewer scoring is -- and here I'm quoting again, "intended to provide advice to individuals responsible for making awarding -- making awarding decisions."

Now, Mr. Sheldon, the independent panel had to score the applications, but the scores were advisory and not dispositive. Is that the case?

MR. SHELDON: That is accurate.

DEL. NORTON: The panel scored the applications, provided its advice, and so I can't see that the internal policies were violated.

So let's look at the funding announcement, because the Bishops applied even given what the announcement said. (Chuckles) -- and we don't have to conform the announcements with the organization. We're supposed to conform the announcement with what the victims may need. "May" is the operative word there. The funding announcement stated four separate times that -- in four different places that HHS would give strong preference to grantees that will refer victims to family planning services.

Now, the document -- and this is what I want to question you about -- also said that the scores would be one element in the decision-making process, and that they would not include a reduction in points for those applicants who were not able to provide a full range of referrals. I'd like you to explain that. And did you -- and after explaining that, my question, of course, is do you think all of the procedures were followed?

MR. SHELDON: Yes. And let me articulate, as I have before, the -- I think the reviewers did a very good job, and they indicated strengths and weaknesses in all of the applications, and indicated that the -- all of the applicants did not provide sufficient detail in several areas. Based on the -- then they, then they scored. Based on their request for additional detail, we went back to all the applicants and requested additional information.

And the answer to your second question is, yes, I believe that we complied with all the grant requirements.

DEL. NORTON: You did not reduce points?

MR. SHELDON: Pardon me?

DEL. NORTON: You did not reduce points for applicants who were not able to provide a full range of referrals.

MR. SHELDON: We did not.

REP. ISSA: The gentlelady's time is expired.

I would now ask unanimous consent that the attorney general's annual report to Congress, and Assessment of U.S. Government Activities to Combat Trafficking in Persons, Fiscal Year 2009, published 2010, be admitted in the record. Without objection, so ordered.

We now recognize the gentleman from Texas, Mr. Farenthold, for five minutes.

REPRESENTATIVE BLAKE FARENTHOLD (R-TX): Thank you, Mr. Chairman.

And Mr. Sheldon, Mr. Negash, thank you for being here.

Let's kind of get the cards on the table here. Just from having listened to the questions on -- in light of the scope of this hearing, the full range of permissible gynecological and obstetric care services kind of boils down to abortions or contraception. Would that be a fair statement?

MR. SHELDON: There's several -- there's a range. But in the discussion here, it appears that, that's what the questioning is on.

REP. FARENTHOLD: All right. (Off mic, or audio break) -- I mean --

MR. SHELDON: (In progress) -- in these funding announcements, we looked at the totality and determined that all four applicants had the competence to administer the grant. Ultimately, it came down to exercising the preference.

REP. FARENTHOLD: And so you couldn't imagine any scenario in which the Catholic Bishops, or any other group who refused to refer these three type of services, would be awarded this grant?

MR. SHELDON: That is -- that's not accurate, respectfully, that -- It would have been -- because a lot of the subgrantees of the current grantees have the same religious faith, the same religious belief, but they have -- basically, those organizations have worked with those individuals so that they would not have to violate --

REP. FARENTHOLD: Well, I mean --

MR. SHELDON: -- their Catholic teaching.

REP. FARENTHOLD: -- it seems to me there are two separate federal laws, the Weldon amendment and the Coats-Snowe amendment, that specifically prohibit HHS from discriminating against health care providers that do not perform or refer to a abortion. Why do you think those aren't applicable here?

MR. SHELDON: We've -- we've -- I checked with general counsel on this. But let me point out that, as I indicated, that subgrantees are faith-based organizations -- who share the religious belief of the Catholic Bishops -- are still providing services under this contract. But victims who require the additional services outlined are not served by that individual subgrantee.

REP. FARENTHOLD: All right, so -- I am not sure that answered my question. But just because I've already used up more than half of my time, I do want to follow up with a couple of questions with respect to what you just said about the -- about the victims' desire or need for these services.

Have any of your organizations ever conducted an evaluation of human trafficking victims to ask them how important they consider to be -- these services to be?

MR. SHELDON: Yes. There is research in that arena that we will be happy to provide the committee.

REP. FARENTHOLD: I would like to see this, because, again, I think we run into a situation where, as, again, Mr. Gowdy pointed out, of the -- of the 2,271 victims that the USCCB helped, almost 988 were men and 100 and -- or, I'm sorry, 1,283 were females. Does this sound correct to you?

MR. SHELDON: I'm not sure I can speak to --

REP. FARENTHOLD: All right --

MR. SHELDON: -- (personal ?) knowledge.

MR. NEGASH: I don't have the figure with me, but we can get back to you exactly --

REP. FARENTHOLD: All right. So a good percentage of them were men. Is that -- that would be a fair statement? I mean --

MR. SHELDON: Again, you know, I'll have to get back --

REP. FARENTHOLD: (Inaudible) --

(Cross talk.)

MR. NEGASH: (Inaudible) -- I will get that information.

REP. FARENTHOLD: Guys don't require OB/GYN services, right?

MR. NEGASH: That's correct.

REP. FARENTHOLD: And so USCCB could continue to -- continue to service men without any problem with related to this. Would that be correct?

MR. NEGASH: That's correct.

REP. FARENTHOLD: And what about the females who were currently in the process with USCCB? What happens to these women?

MR. SHELDON: As I indicated earlier, the USCCB has been very cooperative to assure that victims that are currently being served continue to be served. And I would have to compliment them on the smoothness by which we've made this transition.

REP. FARENTHOLD: And finally, again -- I think Mr. Gowdy pointed out, and I'd like to reiterate again -- not all victims of human trafficking are involved in the sex trade. There's slavery for labor and other purposes.

MR. SHELDON: Yes, I think the numbers who were actually served under the contract, who were victims of sex trafficking, was approximately 19 percent. The broader numbers that we've seen indicate a much higher percentage of --

REP. FARENTHOLD: So, I --

MR. SHELDON: -- not only sex trafficking, but a combination of sex and labor trafficking.

REP. FARENTHOLD: I just remain troubled that a -- that U.S. Catholic bishops were discriminated here for their unwillingness -- against for their faith-based belief and unwillingness to provide abortion.

And I just want to be on the record that I, and I think many members of this panel, are troubled by that. Whether it actually violates the letter of the laws I referred to earlier, I think it clearly violates the spirit of those laws, and I'm extremely disappointed at the way this was handled.

I'll yield back.

REP. ISSA: Would the gentleman yield?

REP. FARENTHOLD: Certainly.

REP. ISSA: I would just like, since you've brought this point up, to clarify for the record:

So the figures you've been giving all day of these higher numbers -- much higher numbers -- are not the numbers within this program, but numbers that are not supported either by the attorney general's annual report to Congress, or by the actual numbers reported by the previous oversight of this -- for five years of this, of these activities under your jurisdiction. Is that correct?

MR. SHELDON: They are not a reflection. But I would be happy to provide the committee with the research that we've seen in this arena.

REP. ISSA: Well, any independent research we'd appreciate having.

I would ask that the clerks annotate any place the witnesses answered to higher numbers, or agreed to higher numbers, that they annotate the actual numbers that are in the record from Health and Human Services, and, appropriately, the attorney general's office. Because we want to make sure that the misstatements that you made earlier in agreeing to much higher numbers are corrected for the actual numbers that occurred.

With that, we recognize -- with that, we've concluded on that side, so we would now go to Mr. Kelly of Pennsylvania.

REPRESENTATIVE MIKE KELLY (R-PA): Thank you, Mr. Chairman.

And thank you both, Mr. Sheldon and Mr. Negash, for being here.

And I've been looking through this, and I know the question earlier today was: Was the Catholic Church discriminated against? And so I go back in, and I'm looking, and I'm seeing that there's language that I'm wondering about, and regarding the development of the language giving preference to applicants that provide all reproductive services.

And I said -- I read through and it says, for the first time -- this is the first time ever, this grant -- the director will give strong preference to applicants that are willing to offer all the services and referrals delineated under the project objectives. Applicants that are unwilling to provide the full range of services and referrals under the project objectives must indicate this in their narrative.

Now, what I'm trying to understand is, was there any discussion at all when they developed this language about the conscience clause?

MR. SHELDON: This language was developed -- I've only been the assistant secretary for six months -- this language was developed before I came with the agency.

REP. KELLY: And I think -- so, you don't know?

Does anybody know how the language was developed, because this is the first time it's ever happened. And obviously, the Council (sic) of Catholic Bishops have a pretty good track record, because I'm hearing how much money they've gotten in the past, and they were granted this money before, they've had it for three years, and they've done a pretty good job with it. But it comes down to this one issue.

MR. NEGASH: The drafting of the funding announcement is a very collaborative process. In that process, the policy experts, the office of general counsel and career employees were involved. So I believe that, through the process of developing the funding announcement, throughout the process we have been consulting the office of general counsel to make sure that the statements, and especially the services to be provided, is consistent with existing statutes --

REP. KELLY: OK, but there's --

MR. NEGASH: -- in the law.

REP. KELLY: -- existing language out there that -- under a conscience clause. So I'm asking, was there any drafted, included anywhere under the conscience clause?

MR. NEGASH: Again, throughout the process of developing these announcements, we have consulted the office of general counsel to make sure --

REP. KELLY: And I understand you consulted the office of general counsel. And, you know, I've -- in my life time, I know that there's a -- there's a huge difference between what's legal and what's right. And I know we debate this all the time.

But you could structure the language of this grant that would eliminate the conscience clause. And this is what bothers us: I think, when I look at your scoring and I see how high the Council (sic) of Catholic Bishops have scored, and I know their track record -- and I think this is where the -- where the -- where the question comes in: Why?

Why now? Why did we go away from the way we used to look at things? Why do we have a score, and then disregard the score and say: These folks came in pretty high; but you know what, not high enough, because they didn't agree to provide all.

And I'm asking, where is the conscience clause involved in it all. And I'd like to know if you have any documents, including emails, or anything, or any -- (inaudible) -- language or anything at all that's applicable, that you could supply it to this committee. Because I got to tell you, just coming from a private background, I look at this and I say, you know what, we got gamed on this. We structured this so tightly. We put language in there that would preclude the Catholic Bishops participating, even though they have a great track record, even though they score so high, even though they outscore other people.

And it comes down to, so why was that language put in there, and why the disregard -- the conscience clause -- why? And while it may be legal, and maybe that's the fulcrum that it turned on, or the point that it turned on -- (inaudible) -- it's very disappointing for me, not just as a member of the Congress, as a citizen of the United States, to look and say, you know what, they didn't do what you wanted them to do, so we structured language to keep them out of the hall. We fixed it. We gamed it so they couldn't participate. All the good work they've done, everything indicated in their past history was negated by the language. That's not right, gentlemen. It's not right. It doesn't make sense to me. It's not American.

And to me, this is absolutely pathetic that we have to have a hearing to discuss this. This is so obvious to me, a way of eliminating faith-based people from being able to participate by structuring language that would leave them out.

And with that, Mr. Chairman, I yield back.

REP. ISSA: Would the gentleman yield?

REP. KELLY: Yes, I will.

REP. ISSA: Mr. Sheldon, you're -- you did deliver -- HHS delivered us a conference call memo from August 11, 2011. Are you familiar with the document?

MR. SHELDON: No.

REP. ISSA: Okay. Well, I am now familiar with it. And it very much goes to Mr. Kelly's statement. When reading the document in ordinary English, it becomes obvious that every single part of what is entitled the National Human Trafficking Victims Assistance Program Review Panel conference call of August 11. And I could even give you the pass code but I suspect it doesn't work anymore. What it shows me is that you put a number on everything except the preference that Mr. Gowdy when sitting here in the chair made clear was so great that 20 points was weighted for it. How do you answer today that you put over 20 points on this strong preference? Because you put a number on it, the number was the difference between 69 and 89 or greater. How do you tell us today that you would in a legitimate way weighted 20 points or more on this?

MR. SHELDON: As I indicated earlier, we took the reviewers' comments, the scores, the responses to our questions back to applicants, which had -- which the reviewers had indicated was a lack of detail in all of the applicant score, all of that into consideration in making a final decision. I believe that --

REP. ISSA: Mr. Sheldon, please answer the question -- the time is expired -- if you can briefly.

MR. SHELDON: No, that's --

REP. ISSA: Okay. Then we'll get it in the follow-up.

Mr. Labrador is recognized for five minutes.

REPRESENTATIVE RAUL LABRADOR (R-ID): I yield back.

REP. ISSA: The gentleman yields back to me. So now we have five minutes.

Let's go over this again. The numbers are the numbers, 20 points, which is roughly -- you know, it's more than 25 percent difference when you're looking at the delta between 89 and 69. You realize -- forget about the 110 hypothetical. This is a huge difference. You said you take responsibility for it even though the committee sees the hands of other political appointees very much involved in this, and they did make trips to the sixth floor and they did have consultation with the secretary directly. And we believe that that is part of our overall investigation.

But the question for you, with the gentleman from Idaho's time, you didn't put a weighting, an analytical weighting; at the end of it all, the recommendation by civil servants, by career personnel before political appointees with a pro-abortion bent in mind, before they weighed in, you had a career professional consensus that the Council (sic) of Catholic Bishops organization should have been included for all or part of this. So it was deemed not acceptable over a single issue. The issue -- the code issue is the, quote, "health" -- "the health services," which is basically abortion, contraceptive and sterilization, three out of 200.

Now, I ask you today, is there any way this committee can legitimately not believe that the preference -- the strong preference represented at least 20 points or more than 25 percent difference, thus making it virtually impossible for an organization that was not going to essentially administer and pay for abortions to have this preference? Was there any way that I can reach another conclusion?

MR. SHELDON: As I indicated, we looked at the reviewers' comments, we looked at the scores, and we looked at the answers to the questions that the reviewers indicated had not been provided in sufficient detail. In making a --

REP. ISSA: No, no. You're going back to your talking points. We're not worried about the absence of detail. The fact is you gave a second bite and a third bite at the apple to groups you wanted to qualify or that your HHS wanted to qualify.

Now, one of the considerations this committee has to look at broadly is the damages done -- this complaint did not come from the Catholic bishops. This complaint came from our recognition that if you can use this kind of political appointee judgment based on whether or not somebody will provide abortions, then can't HHS start having a strong preference to avoid doctors who will not do referrals for abortions, nurses who will not work in abortion clinics, Catholic hospitals that will not in fact perform abortions? Is there any reason that I shouldn't see that this strong preference in the Obama administration is going to be worked in and that the conclusion we can reach today based on the actual analytics we have is you've got to win by more than 25 percent, statistically impossible, or you don't win at all?

The fact is a bidder who was in a statistical tie with the top bidder was eliminated based on one item for which there was a 20-point difference. Bottom line is you eliminated them based on a single issue. And this document, which is in the record from August 11th, makes one thing very clear, which is everything else is scored in numbers, and you made a decision to score no number on something that had a 20-point preference or greater.

Isn't it fair to say that this committee must in the future write into law a requirement that if you're scoring by numbers you score everything by numbers and that you never again be allowed to have a subjective earmark-type preference that simply says, we put numbers on everything, and then we don't put numbers on something that is effectively a 100, a yes/no, you either do it to our satisfaction or you don't get the contract?

MR. SHELDON: Mr. Chairman, this department will consistently follow the law. And if the law is changed, then we will do that.

REP. ISSA: The law very clearly says that this was not elimination. There was no question about that because the law allowed for the Catholic Bishops organization to have this contract and performed satisfactorily for five years or more.

Let me just conclude on the gentleman's time with one question. If you're saying you followed the law and you followed procedures, then you're saying it's within the law to say if you don't provide contraceptive services, abortion and sterilization that in fact it's within the law for you to deny the award of the contract.

MR. SHELDON: It is within the law to respond to the needs of this population. Yes, I --

REP. ISSA: That wasn't the question to be answered. You denied this grant award based on these three procedures the Catholic bishops were not willing to do. And in your own testimony, before you answer, you said you renegotiated with the Catholic bishops. You tried to get them to cave in some acceptable way on these narrow three issues. And when you found that they didn't you eliminated them from the grant process.

MR. SHELDON: We asked for a response to their suggestion in their application that they were willing to explore alternative mechanisms by which ORR could carry out this particular function.

REP. ISSA: Isn't it true -- as you know, the time is expired; I don't want to exceed. I thank the gentleman for the time and yield back.

We now recognize having all members had time the gentleman from Mister -- Mr. Smith from New Jersey, who's waited patiently to be the last question of the first round.

REPRESENTATIVE CHRIS SMITH (R-NJ): Thank you very much.

First of all, let me say, Mr. Sheldon, you know, the art of misdirection is alive and well in Washington.

We've heard a rattling off of amounts that Catholic organizations have received in other programs, which only I would suggest respectfully underscores the competence and the effectiveness of the mission of those Catholic organizations. But why we're here today and why we are so concerned -- again, I authored this legislation that established the program we're discussing -- is that there's a new abortion-referral policy. It's new policy. It's brand new policy. It's radical. It's new. It wasn't there before, but it's there now. So that's why we're here. So saying, "Look how much we gave over here or there," that's art of misdirection. And members of this committee and certainly you, I think, have engaged in that, and I say that sadly.

Let me also say that you can't have it both ways. First you compliment the USCCB, their extensive network of subcontractors by saying that the three awardees are entered into contracts with them, a case of benign cherry-picking, I would suggest. But then you say that -- and I think you said this very critically -- that those three NGOs are ahead of where the USCCB was five years ago when they got the contract. That's because they had to establish that whole network. So please, don't offer up that very false comparison because it's very, very misleading.

Let me ask, in what other programs has ACF approved applications that received scores that were 20 points below that which the NGO that didn't get the award. Are there examples?

MR. SHELDON: I'm sure there are. I only --

REP. SMITH: Could you provide them for the record?

MR. SHELDON: I can only speak to my personal experience.

REP. SMITH: Have you ever been a part of that?

MR. SHELDON: I've only been here six months so --

REP. SMITH: But you've approved a number of awards so far. Have you taken those who had inferior scores and jumped them to the head of the line in order to get the --

MR. SHELDON: There are several grants that we have signed off on where we have done, for instance, geographic skipping in order to make sure that various --

REP. SMITH: But where there have been scores done by very competent reviewers who suggest 89, 74 for Tapestry, 69 for USCRI, 89, like I said, for the United States Catholic Conference of Bishops -- as the chairman has said repeatedly, a 20-point spread. Are there examples?

MR. SHELDON: As indicated previously, scores are advisory, but they were also prior to requests for additional information from the applicants.

REP. SMITH: So you moved the goalposts after it was all over. So the reviewers are out of it now, and now you're going to make your own decision.

MR. SHELDON: No, we were specifically responding to the comments that the reviewers had made in their comments.

REP. SMITH: Let me ask you this: Are you familiar with Executive Order 13279?

MR. SHELDON: Not by number.

REP. SMITH: How about the president's executive order entitled Fundamental Principles in Policymaking Criteria for Partnerships with Faith-Based and Other Neighborhood Organizations?

MR. SHELDON: In -- yes, in general.

REP. SMITH: In that EO, which prohibits social grant-making agencies from discriminating against prospective grantees on the basis of religion or religious beliefs, as well as the interference of political appointees in the decision-making process, do you concur with that? Do you think it's important?

MR. SHELDON: I do.

REP. SMITH: Now, the president said decisions about awards of federal assistance -- financial assistance must be free from political interference or even the appearance of such interference and must remain on the basis of merit, not on the basis of the religious affiliation of the recipient organization or lack thereof. Do you agree with that statement?

MR. SHELDON: I do.

REP. SMITH: Then why did you break it? Why did you supersede and do something precisely contrary to that when you had a proven NGO, competent in the field that had gotten high marks from your agency previously, from HHS, even on the medical issue? They were scored on that and were found to be completely competent and doing an exemplary job.

MR. SHELDON: I don't believe we broke it.

REP. SMITH: Okay. Let me ask you this: How far down in the rankings by expert reviewers were you prepared to reach before you would have considered making an award to the USCCB? I mean, had USCRI been 65 rather than 69, 50 -- because you did say before, and I hope you'll correct this because I thought it was a misstatement, you said they were equally qualified -- not according to the reviewers. All four of those NGOs were not equally qualified. But is that just your opinion, or what is it based on?

MR. SHELDON: I think if you will look back at the reviewers' comments you will indicate that the -- each of the applicants either had a strong capacity to lead the project, had considerable experience in managing large refugee-trafficking projects, language similar to that.

REP. ISSA: I'd ask unanimous consent the gentleman have an additional three minutes.

Would the gentleman yield?

REP. SMITH: I'll be happy to, sure.

REP. ISSA: Isn't it true that not qualified for one of them was clearly there. That you -- you say that they were all qualified, but your reviewers had a recommendation that one of the applicants was not qualified.

MR. SHELDON: I believe if you read the totality of the reviewers' comments, Tapestry, which may be the one you're referring to, indicated they had developed a strong organizational plan. They had staff experience and qualified -- they had confirmed that the staff were qualified --

REP. ISSA: In the state of Georgia, in one state.

MR. SHELDON: In the --

REP. ISSA: Okay. I just want to understand. You fully qualified somebody with a low score in one state experience and then said they were all fully qualified.

I yield back to the gentleman; thank him for yielding.

REP. SMITH: Do you want to correct your testimony that they were --

MR. SHELDON: No, I do not want to correct my testimony.

REP. SMITH: You say they're equally qualified.

MR. SHELDON: I indicated that we believed that these individuals were equally qualified to administer the contract --

REP. SMITH: Even though the HHS review panelists stated, quote -- regarding USCRI -- and this is a quote: "The overall level of detail in the proposal is insufficient to ensure that the project will be established and run to an effective level and that the management plan is credible and comprehensive. There is a complete lack of information on specific activities and the timeline is vague, inhibiting evaluation of their reasonableness." That's not my words; that's your reviewers.

MR. SHELDON: And if you read the reviewers' comments on all the applicants, for instance, USCCB proposal lacks detail on shelter models; they --

REP. SMITH: So you pick out one, shelter model.

We're moving -- this was a comprehensive, very negative assessment by the reviewers. You pick out shelters. We're still in the infancy of shelters. I know because I'm working the shelters issues at home and abroad. So, you know, don't pick out one and somehow juxtapose it as if they're equally weighted.

Let me ask you this: In terms of the Snowe-Coats or Coats-Snowe and the Weldon conscious clause, are they applicable here?

MR. SHELDON: We checked with our general counsel's office and -- through the process and believe we are in line with all statutes.

REP. SMITH: So are you saying that those statutes apply to this grant?

MR. SHELDON: I'm saying that we checked with the general counsel's office, as I would in any occasion.

REP. SMITH: But you're saying you checked. You're not telling me what they said.

MR. SHELDON: They felt --

REP. SMITH: Do those two laws --

MR. SHELDON: -- that --

REP. SMITH: -- conscience clause laws have application to this grant or these grants that have been let?

MR. SHELDON: I would be happy to respond to you in writing as to what the general counsel's office position has been.

REP. SMITH: So you don't know.

MR. SHELDON: I do know that we were told that we were consistent with all applicable statutes.

REP. SMITH: That's just a broad -- there are two very important conscience clause protections. And conscience clauses obviously are in the news every day of the week now. There are 12 nurses at UMDNJ New Jersey who are being compelled to be complicit in abortions who are now in a federal suit that will be up in about a week simply because they've been told you do this or you're demoted or you're reassigned or you're fired. So conscience clauses are very much in the crosshairs of the abortion lobby. We know it.

Are those two laws applicable to these grants? You are the head of it. I'd like to know.

MR. SHELDON: I believe they would be applicable. I believe we have not violated them.

REP. SMITH: How many victims of trafficking and their family members who were being served at the end of the contract with the USCCB experienced a break in services and how many others are still not receiving services?

MR. SHELDON: Again, I would compliment the bishops on their --

REP. SMITH: I'm not looking for compliments for them or anyone else.

MR. SHELDON: And --

REP. SMITH: How many are not getting the services?

MR. SHELDON: I'm not aware of any numbers.

REP. SMITH: You're not aware of anyone who has not gotten the services, the no --

REP. ISSA: The gentleman's time has expired. You want to finish up --

MR. SHELDON: To my personal knowledge, no.

REP. ISSA: I thank the gentleman. I thank the gentleman from New Jersey.

We now go to the gentleman -- this is second round. We go to the gentleman from Michigan, Mr. Walberg, for five minutes.

REP. WALBERG: Thank you, Mr. Chairman. I thank you for the second round as well, because frankly, it is an opportunity to really get the fullness of what has gone on here. This is really, as I understand it, being a Protestant, not an attack on a Christian -- on the Catholic Church or even one of its entities. They just happened to be a solid, positive, caring organization that's seeking to reach and meet needs. I wish we would be dealing with Samaritan's Purse here or Compassion International or any others that would be offering these same services. But the Catholic organization was the one that is in question here. So it's really not -- it's not an issue of saying this is an attack on them.

It also doesn't seem to be an attack on the money. As some of my colleagues on the other side of the aisle are seeming to want to point out that the Catholic Bishops received dollars for their programs in nutrition, in shelter, in medical assistance, and I'm sure there are others as well. I forget some that were mentioned. But yes, they received support to do those things. And they received support to do those things apparently as long as it did not come anywhere near the issue of one specific issue, and that's abortion services and that's family planning. That goes directly against the principles of many of us here who believe in the foundational principles of this country. That's the concern that I see that's going on.

When we talk about equally qualified, they've gone beyond being equally qualified, meeting criteria that was put in place and evaluated by a hearing panel. This hearing really is about the concern that we have about arbitrary social engineering and its dangers. It's a concern that we would have that would say that the victim, and indeed, there is tremendous victimization that we're talking about here that goes on, but an unwillingness to accept the fact that has been accepted before that there are policies and principles of organizations that go beyond the one victim and goes to the fuller victimization that includes even the unborn child.

That's my concern. And the fact that we have law in place, Weldon, Snowe, that your counsel has indicated isn't being superseded or violated. And yet the concern about the direction even of the secretary of HHS on this particular issue that would seem to indicate that yes, it will be perceived as not being violated in order to carry out the social engineering that goes on.

Mr. Chairman, I applaud you for holding this hearing. And I think that to assume anything other than the fact that this is not about religion or a specific religion. This is not about the money that is given to that same entity for other issues. But the fact this is about showing that we have broached something that we never countenanced here in the past in this great country where on the basis of strongly held religious moral belief you will be discriminated against. I think that's what we're looking at.

I'd be glad to yield my time to the gentleman from New Jersey or the chairman again for further questioning, if they so desire.

REP. ISSA: If the gentleman wouldn't mind yielding to me.

REP. WALBERG: Yes.

REP. ISSA: And I'll try to make it up to the gentleman from New Jersey.

There was a question that has been just driving me crazy, Mr. Sheldon. You have within Health and Human Services all kinds of questions about abortion, contraception, sterilization. This isn't the only time it pops up within the broad Cabinet position.

If you have a mandate under Executive Order 13279 clearly saying you cannot preclude someone based on religious beliefs, if the Catholic Bishops made it clear that this problem was the result of their religious beliefs -- and they clearly did that with you; I don't have to call them to find that out -- then didn't you have an obligation to square the difference between 13279, which said you couldn't provide -- you couldn't basically give a strong preference against their religious preference -- religious beliefs, which you did, because the two were inseparable. Did you have an obligation not to ask the Catholic Bishops for a workaround but to produce proposed workarounds that were acceptable to HHS?

Did that ever cross your mind that that was really your obligation, your obligation to square an executive order that said you couldn't have this strong preference against their religious beliefs when in fact you clearly had a strong preference against the result of their religious beliefs?

MR. SHELDON: I do not believe that's the case. The --

REP. ISSA: Well, is that -- you can choose not to believe something, but this is not a deniable fact here. These three problems, which were determinative in whether they got this grant, were the result of their religious beliefs, and they articulated that to you. And you preferred others because of the result of their religious beliefs, didn't you?

MR. SHELDON: We made a decision to --

REP. ISSA: No, please just answer the question. The time is expired, and it's an easy enough -- you did make a award around what they told you was their religious beliefs preventing those three procedures, didn't you?

MR. SHELDON: I do not believe we did.

REP. ISSA: Well, then how the heck in the world can you say -- you know what, I'll take additional time when it's my own. I don't want to run over.

With that, we recognize the gentleman from Virginia, Mr. Connolly, for his five minutes.

REP. CONNOLLY: Mr. Chairman, if you wanted to finish your thought, I would gladly yield to you for such time as you may require.

REP. ISSA: I thank the gentleman.

I do want to try to get this out.

REP. CONNOLLY: Mr. Chairman, I just plead that I get my five minutes when you're finished. (Laughs.)

REP. ISSA: The gentleman's plea has been heard.

REP. CONNOLLY: I thank the chair.

REP. ISSA: Because I think this is important to make the record. And I want to be fair; I don't want this to be one side or the other on this. Your -- you were told by the Council (sic) of Bishops in his consultation I believe that these were religious beliefs that prevented them from providing these procedure, at least in the way that you originally envisioned them, correct?

MR. SHELDON: I never had any conversations with the bishops.

REP. ISSA: Or is it your understanding --

MR. SHELDON: But I --

REP. ISSA: -- that this preclusion is because of their religious beliefs?

MR. SHELDON: I understand their religious beliefs. The contract was about the delivery of services. And our decision was based on the merit of people who could provide those services.

REP. ISSA: No, I understand that. But look, if I'm an Orthodox Jew and I tell you I cannot -- I cannot drive a car on Friday night and you've got a contract that says "I need a driver on Friday" -- "I need a driver seven days a week," and you know I can't do it on Friday night, don't you have a clear prohibition by an Orthodox Jew that he cannot or she cannot do -- perform that duty? And then isn't -- aren't you dealing with the executive order that you have -- you're asking someone to do something which is -- cannot be done under their religious belief, and you either have to say I'm sorry, but I'm precluding you because of your limitations under your religious belief, or not. Isn't that the real question here?

MR. SHELDON: I believe if I have a requirement for certain kinds of services, those individuals who --

REP. ISSA: So your answer is --

MR. SHELDON: -- are willing --

REP. ISSA: -- that if I'm an Orthodox Jew and it's Friday night and I tell you I can't drive you, that in fact you're only dealing with the service, you're not dealing with the religious belief?

MR. SHELDON: And if I said to you, please come back with an alternative as to how I can get the service I need on Friday night and you came back with an alternative as to how that could be done, I think that would be a different story.

REP. ISSA: Well, they don't have the responsibility under the executive order, you do. And that's the point I'm trying to make. You had it -- you had the ability to modify the contract. You had the ability to -- within the contract provisions, you could have said okay, we're going to have separate administration, a separate procedure. We're going to recognize that a limited amount of people will go to their doctor and -- because they send people to the doctors. That wasn't a question. They go to their doctor, and these other procedures in the case of rape, which is allowed under federal law -- we're not dealing with all abortions; we're only dealing with rape-based abortions for federal funding -- that Medicaid can do it in the case of sterilization, in the case of contraception. You had it at HHS the ability to prescribe an alternative so that you could meet both your perceived contract needs, which you wrote, and the executive order that's still in place, didn't you?

MR. SHELDON: And that's the very reason we went back to the bishops and asked them to provide the details of the alternative that they said they would be willing to do.

REP. ISSA: I appreciate that, Mr. Sheldon. And I know we're not at odds other than my point to you -- and I appreciate the gentleman from Virginia who's going to get his full five minutes -- was you had the obligation of the executive order and you had the obligation to meet what had been written as a perceived list of services. And we're not arguing today specifically about whether those services are right or wrong, abortions, whether -- any of that, or even, you know, the contraceptive question or any of those. We're arguing over who had the responsibility, and you seem to think repeatedly in every answer the bishops had the responsibility. And I'm going to say that at least from this position in the chair that we the government have the responsibility to square executive orders and the law and our requests for proposals and grant writing. It's not for the religious-based person who says, I can't drive on Friday night through Saturday at dusk because of my religion, and yes, there's somebody else who can do it on -- can't do it on Sunday. Let's reconcile that. It's our obligation as government, at least that's my view.

And I think the gentleman from Virginia is very kind, and he's recognized for five minutes.

REP. CONNOLLY: I thank the chair.

And I actually want to follow up on I think where the chairman is trying to get at because I actually -- I have the same set of concerns in terms of how the decision was arrived at. But I want to clear away some debris since I had been gone to another hearing.

I think pretty -- if there were suspicions that this had something to do with a bias about a particular denomination, I think the evidence is overwhelming that that's not true. So I think our fears about that, if they existed before this hearing, can now be allayed.

With respect to abortion, Mr. Sheldon, is there a single penny in this grant award that funds abortion directly?

MR. SHELDON: No. This award does not provide funding for any direct services other than emergency services such as food, shelter, clothing, emergency medical services.

REP. CONNOLLY: So it's presumably not about abortion. We were talking earlier, and my time ran out at that time, about the fact that the grant application talked about the need for the provision of family-planning services. I assume by that that meant contraception; is that correct?

MR. SHELDON: Contraception would be included in that.

REP. CONNOLLY: What else would be included in it?

MR. SHELDON: Sterilization, abortion, the full range of the 200 services that we've been previously talking about.

REP. CONNOLLY: And heretofore, the Catholic Bishops had been the recipient of this grant money; is that correct?

MR. SHELDON: That's accurate.

REP. CONNOLLY: And the purpose of this --

MR. SHELDON: It was contract money at that --

REP. CONNOLLY: Contract money. And it was to provide contract services to treat the victims of human trafficking; is that correct?

MR. SHELDON: Well, to provide case-management services.

REP. CONNOLLY: Case management. And again, I was out of the room, but if I understood a previous exchange, under that contract 19 percent of the clients served were victims of sexual trafficking; is that correct?

MR. SHELDON: No. I think the -- and I'd like to supplement this later, but I believe the actual number was about 19 percent.

REP. CONNOLLY: Right. That's what I said, 19 percent.

MR. SHELDON: Oh, I'm sorry. I thought you said --

REP. CONNOLLY: But --

MR. SHELDON: -- 90.

REP. CONNOLLY: -- are you familiar with the CRS study that says actually 79 percent of all trafficking victims are also victims of sex trafficking?

MR. SHELDON: I'm not familiar with that specific study, but I am familiar generally with studies which indicate a higher percentage of individuals who are victims of sex trafficking or a combination of sex and labor trafficking.

REP. CONNOLLY: Well, most of the victims, sadly, tragically of human trafficking are female; is that not correct?

MR. SHELDON: That is correct.

REP. CONNOLLY: And most of those victims -- female victims, tragically, are also victims of sexual trafficking; is that not correct?

MR. SHELDON: I believe that is accurate.

REP. CONNOLLY: So was it the concern of the department that given that data that we had to shift the focus of the grant award to provide more aggressively family planning services, among others, to deal with sexually transmitted diseases and unwanted pregnancies or the prevention of unwanted pregnancies?

MR. SHELDON: Over the course of the last decade, we have learned more and more about human trafficking. And it was based on that that the department made a determination --

REP. CONNOLLY: All right.

MR. SHELDON: -- to include this --

REP. CONNOLLY: All right. Now, here's what's bothering a lot of us, I think. The Catholic Bishops ranked number one, as I understand it, in the initial ranking?

MR. SHELDON: Number two.

REP. CONNOLLY: Number two, but higher than others.

MR. SHELDON: Yes.

REP. CONNOLLY: So why would we then, knowing that, actually deny them the award when they came in number two?

MR. SHELDON: The reviewers made several -- and these are not talking points; this is a fact. The reviewers made some -- several comments about a lack of detail in all of the applicants. We went back to request additional information. The grant process also indicates that the scores are advisory in nature, that the ultimate decision to award or not award rests with the assistant secretary.

REP. CONNOLLY: All right. I've only got 35 seconds. In your opinion, Mr. Sheldon, having reviewed this case and obviously preparing for this hearing today, did you find any evidence -- do you believe there is any evidence of religious bias, of political bias in favor or against the ultimate recipients of this grant money?

MR. SHELDON: I can state unequivocally there was not.

REP. CONNOLLY: I'm sorry. I did not hear you.

MR. SHELDON: I can state unequivocally there was not.

REP. CONNOLLY: And that's your testimony --

MR. SHELDON: My testimony.

REP. CONNOLLY: -- under oath.

MR. SHELDON: Under oath.

REP. CONNOLLY: I thank you, Mr. Sheldon.

REP. ISSA: I thank the gentleman.

We now go to the gentleman from Pennsylvania, Mr. Kelly, for a second round.

REP. KELLY: Thank you, Mr. Chairman. And again, thanks for holding the hearing.

And Mr. Sheldon, Mr. Negash, thank you.

Now, Mr. Sheldon, you've been on the job six months.

REP. CONNOLLY: That's correct.

REP. KELLY: Okay. I've only been on 10 months so I know --

MR. SHELDON: That's --

REP. KELLY: -- I know how you're feeling. I'm getting blamed for a lot of things that have happened before I got here too. Anyways, because this is a very serious matter, but I want to go back to that earlier questioning. I would like all the documents, including e-mails about the preferential language and any discussion regarding the conscience matter, because I think that's really crucial to what we're doing right now.

MR. SHELDON: Yeah. Our staff will continue to work with your staff on producing documents.

REP. KELLY: Okay. And I would sure appreciate that. And the purpose of these hearings really, I cannot tell you, the way I look at it, to me there is such a bias. And again, we got gamed on this one. We changed the language to eliminate some of the people that would have been normally included. So I think that's pretty clear to me and to any common-sense thinking person. Having said that, Mr. Chairman, I'm going to yield back my time to you. I have to run to another hearing.

REP. ISSA: Okay. I thank the gentleman for yielding.

And I'll just continue on something. In 2009, isn't it true -- this is before you came in but this was during the Obama administration -- Council (sic) of Bishops in execution of this contract, this grant award was rated outstanding, weren't they?

MR. SHELDON: I can't testify from my personal knowledge, but I believe that to be the case.

REP. ISSA: Mr. Negash, how about your personal knowledge?

MR. NEGASH: Well, let me --

REP. ISSA: Our indication is that they were awarded greater sums. They were listed as outstanding. Everybody at HHS was extremely satisfied with their performance year over year after year for five years under both Republican and Democratic presidencies.

MR. NEGASH: I'm not aware of any performance evaluation that they were graded.

REP. ISSA: Okay. So here's the question we've been waiting all day to ask in a strange way, because I've listened to both majority and minority. Majority has asked questions about these numbers and the grant process. The minority has told us heart-wrenching stories about women who have been persecuted and dealt with in the worst possible way and raped. But these are the people that this organization that was summarily eliminated was dealing with successfully for half a decade, weren't they?

MR. NEGASH: It's my understanding, Mr. Chairman, this grant is not about providing direct services. My understanding is -- (inaudible) -- the national agency was probably having a relationship with said grantees around the country.

REP. ISSA: Yeah. No, I understand that. But this organization --

MR. NEGASH: This organization --

REP. ISSA: This organization for five years administered and provided excellent service in finding, including your former organization, finding various people in -- all over the country, including Georgia and other places. They found the people to provide the necessary services on a case-by-case basis to 1,000-plus women a year. The fact is, this is an organization that was compassionate and successful. It wasn't about the money. They don't apply for this for reasons of money; they applied because they want to provide this service. They administered successfully for five years. For five years, the women who had been raped, the women who had been tortured, the women who had real needs, including STDs to be taken care of, they were taken care of through this process.

So my question to you, Mr. Sheldon, today is, in your consideration of how important this 20-plus-point delta that had to be overcome to deny them any part of this grant, you did so of an organization that in the past had succeeded in spite of that, didn't you?

MR. SHELDON: They have succeeded and they are continuing to succeed with human-trafficking victims --

REP. ISSA: I understand. But they succeeded on this contract effectively, this grant -- this grant, these people. They had succeeded in the past, and yet they were denied because of their religious beliefs preventing these three procedures, correct, or two procedures plus prescriptions?

MR. SHELDON: They provided, as I indicated, a strong performance under the terms of the contract.

REP. ISSA: Okay. Now, that's a good point and I thank you for it. Terms of the contract changed.

Now, you keep going back to you asked the bishops and you went back to them. I've become familiar during the intervening minutes with the Council (sic) of Bishops' response, and I read it differently than you do. I read their response in, if you will, this second round, which often when we find contract irregularities and we find misconduct by bureaucrats or political appointees, what we find is the second and third rounds are usually used to game the system from the first round because they didn't like the outcome. But when the bishops said that they were willing to consider alternative ways, as far as I read it, this is an outreach for you to find an alternative way, not for them to propose an acceptable alternative way, something that's acceptable to you.

Do you see that somebody like myself could in common English find that interpretation?

MR. SHELDON: I felt by reaching back out to the bishops and asking for alternatives that they would be willing to provide that.

REP. ISSA: Yeah. But do you see how I could find that reading?

MR. SHELDON: I understand where you're coming from.

REP. ISSA: Okay. Well, we'll take that as a yes.

We now recognize the gentleman from Oklahoma, Mr. Lankford, for five minutes.

REPRESENTATIVE JAMES LANKFORD (R-OK): Thank you, Mr. Chairman.

This new language that was added in that's different than the previous contract that for five years they had, obviously, they've done a good job on it in the past. That's well established. There was some decision made at some point I assume based on data -- is there data out there somewhere saying that there was a portion of individuals that were interested in these other abortions and contraceptives and such that didn't get it and had complained back, or was there some study that was done determining that this is not being provided and this is a problem?

MR. SHELDON: There is research indicating the needs of this population. And based on that research -- and we would be happy to provide that.

REP. LANKFORD: Well, I'm just wondering, in the specific fulfillment of the contract, there was data that was provided saying that these things are needed and they're not being provided and the Catholic Bishops are prohibiting this or -- because obviously, the Catholic Bishops are not providing the health care. So they're sending them to clinics, and then the HIPAA laws kick in. They don't know what's happening at that point. They're just -- they're case workers that are connecting them with the clinic, and then health care is provided there. So I would assume there's some data saying and they were prevented from getting these services.

MR. SHELDON: What I can indicate and we will provide you is the provisions that they provided in their sub grant, I mean, their subcontracts to sub-grantees restricting the options that those --

REP. LANKFORD: So restricting repayment for that, correct? Is it just -- not saying you can't do it but saying, don't ask us for repayment for these services.

MR. SHELDON: We will provide the specific information to you.

REP. LANKFORD: Okay. That would be great because my understanding was it's just a -- they're not saying you can't do that, you're prohibited, we're going to reach into your doctor's office and tell you what to do and what not to do. They're just saying, if this is performed don't bill us because we don't reimburse for that.

MR. SHELDON: Well, under the terms of the original contract as well as the terms of this grant, none of the dollars of this grant are for the actual delivery of services.

REP. LANKFORD: Correct. That's what I'm saying. So that relationship, they're not prohibiting it; they're basically saying, you won't be reimbursed through us or that's not something we encourage or --

MR. SHELDON: I'd be happy to provide the specifics but --

REP. ISSA: If the gentleman would yield for a second. Stop the clock.

For the record, when I opened and mentioned the documents that we had obtained that had not been provided by HHS that the press had, which I understand have now been accepted, and hopefully the reservation is now withdrawn -- it's withdrawn -- additionally, the documents, which the gentleman is saying he will provide, were requested and have not yet been delivered.

So although I appreciate your saying you'll deliver them, we will expect full supplemental responses in writing or we'll bring you all back because this is part of our problem is that these documents, which we suspect say what Mr. Lankford is saying, we won't know for sure. So if you can, to the greatest extent possible, make assumptions of what you believe they say, it will prevent coming back because we're all pretty sure that Mr. Lankford is correct as to his assertions.

MR. SHELDON: We will do that.

REP. ISSA: And I thank you.

MR. SHELDON: But I also would be happy to come back. (Laughter.)

REP. ISSA: You're a first.

With that, the gentleman may resume.

REP. LANKFORD: Thank you, Mr. Chairman.

Then with this shift and what happened in the previous contract, there had to be a decision made at some point based on data or based on decisions saying this was a problem. They did great in all these six areas, except they didn't people to have abortions or encourage contraceptives, because obviously, as you mentioned before, they're not providing; they're just encouraging and sending that message out. So because they're not encouraging contraceptives or they're not encouraging abortions, we're going to make -- we're going to put language in there to make sure they do next time. Who made that decision and when was that decision made?

MR. SHELDON: Well, that decision was made, again, prior to my --

REP. LANKFORD: Correct.

MR. SHELDON: -- getting here. But it is my understanding it was made based on research in terms of the needs of this particular population.

REP. LANKFORD: And the fact that it wasn't fulfilled in the previous contract or just other research separate from that --

MR. SHELDON: Other research.

REP. LANKFORD: -- because in the previous --

MR. SHELDON: Other research.

REP. LANKFORD: If there's a change in the language on that, who made that decision then? When was that decision made?

MR. SHELDON: I believe that was a collaborative decision in the development of the FOIA, but I'll ask --

REP. LANKFORD: Mr. Negash, can you let us know? Because obviously, you were there during that time period as well.

MR. NEGASH: I believe that the process of developing the FOIA the office of general counsel, the policy expert was -- (inaudible) -- HHS including the leadership at -- made a point to include that language.

REP. LANKFORD: Okay. So can you list the names that you would say there? You listed titles. Can you list the names there of the people that were involved?

MR. NEGASH: Well, I believe at the office of the assistant secretary at that time -- (inaudible) - - the office of general counsel. I can give you the list of who those people are. And I believe the office of the secretary also.

REP. LANKFORD: Okay. Kathleen Sebelius was involved in that as far as making that decision to have that language involved.

MR. NEGASH: I don't have any contact with the secretary.

REP. LANKFORD: Right, but it came in front that office.

MR. NEGASH: I believe that the office of the secretary was reviewing the --

REP. LANKFORD: The issue is -- and this is something we've talked about in contract writing and in grant writing. And the reason I bring all this up because at times grants and contracts are written in such a way to deliberately exclude people and to say I'm going to write this in such a way to make sure only a certain group would be eligible for this. And if this language is written in such a way, there's a couple problems here. One is the clarity of the exclusion to say that there's a priority or that we're looking at it or this is important to us is one thing, but to say, unless you encourage abortions and contraceptives need not apply. But that type of certainty definitely is not in there.

But the way the language is written, it establishes this process that hey, anyone who has this belief should not apply unless you're willing to give up your beliefs. Unless you're willing to encourage abortions, don't come.

So the language is written in such a way to exclude a group that had currently done it for quite a significant time, and had done a good job, and what I'm interested in, is there data that's connected to that saying this was a problem in the previous five years based on this data? We found this data from doing this, and so we need to make this shift to purposely exclude the group that had done it in the past that had high marks.

And so that's the struggle here, and it goes into the whole essence of how we write grants, and how we write the proposal. If there is a -- if the administration has determined in these areas you have to promote abortions or we don't give you U.S. funds, say it. Just come out and say it. Don't go through the whole dog and pony show. Make it clear at the very beginning and to keep that priority.

So with that, I will yield back.

REP. ISSA: I thank the gentleman.

We now recognize the ranking member for five minutes.

REP. CUMMINGS: Mr. Sheldon, if the Catholic Bishops had come back and said, after they told you they had some alternatives and said these are the alternatives, what would have happened?

I'm not saying -- I mean, what would have been the process then? In other words, they come back, here, these are our alternatives.

What would be the process then? Would there be a possible -- I know it depends on what they would say, but would there have been a possible rescoring? I mean, what would happen? I mean, what would be the process? I was asking you for the results, process.

MR. SHELDON: No, we would have analyzed that in addition to the reviewers' comments, in addition to the responses of the other entities, and we had indicated in the funding announcement that we would -- we intended to have multiple grantees, as opposed to just one grantee.

REP. CUMMINGS: And Mr. Sheldon, according to the grant announcement, the scores do not take into account the preference for applicants who can provide a full range of services. The funding announcement states, and I quote, "Applicants applying to provide less than the full set of services and referrals described under," quote, "comprehensive case management," end of quote, will not receive a reduction in points in this section unless the limitations are likely to impede a victim's ability to become certified and meet their food, clothing, shelter and emergency health care needs.

Why did the scores not take into account the strong preference for a full set of services and referrals?

MR. SHELDON: Because it was a preference as opposed to a requirement of the contract.

REP. CUMMINGS: And so I'd like to better understand, just by walking me through the review process: After applications were received, reviewers gave out scores but they did not give a recommendation as to which groups they thought should get the grants.

MR. SHELDON: That's correct.

REP. CUMMINGS: Is that right?

MR. SHELDON: That's correct.

REP. CUMMINGS: So they gave out scores, but didn't say who should get them. After the scores were given there were follow-up questions for some applicants. Were the answers to these questions taken into account in awarding the grants?

MR. SHELDON: Yes, and they were --

REP. CUMMINGS: And did other applicants have questions? I mean, in other words, was there some follow-up with the other applicants also?

MR. SHELDON: Yeah, there were questions, and we can provide those. There were questions to all of the applicants patterned after the reviewers' comments as to what weaknesses existed in each of those individual applications.

REP. CUMMINGS: Now, do you ever change the scores based on this kind of additional information that might come?

MR. SHELDON: You would change the decision. You wouldn't go back retroactively and change the scores.

REP. CUMMINGS: Okay, you might change the decision. So what decisions are we talking about? I thought you hadn't made your decision yet.

MR. SHELDON: We hadn't made the decision yet.

REP. CUMMINGS: I'm sorry?

MR. SHELDON: We had not made the decision at that point.

REP. CUMMINGS: So in other words, you may have been contemplating a decision.

MR. SHELDON: I wanted to wait until we got the responses to the questions that we'd asked all the applicants.

REP. CUMMINGS: Okay. Now, were the Catholic Bishops the only ones that did not, you know, give responses other than saying that they had alternatives?

MR. SHELDON: Yeah. No, they provided a response, because it wasn't just on this issue.

REP. CUMMINGS: Okay.

MR. SHELDON: And we also asked them for clarification on their cost per client, but we can provide that, because it wasn't just, you know, targeted for that one issue.

REP. CUMMINGS: Okay. And after the grants were awarded, were the applicants informed as to why they were rejected, and if not, why not? In other words, did you inform them as to why they --

MR. SHELDON: I believe we -- Eskinder, can you help me with that?

I think that they were indicated as to what the decision was. I did personally meet with representatives of the U.S. Conference of Catholic Bishops at their request after the decision had been made to kind of lay out the rationale for the decision in that case.

REP. CUMMINGS: And did they complain that they had been discriminated against?

MR. SHELDON: They did not complain that they had been discriminated against. They did indicate that they would look at their full range of options as to --

REP. CUMMINGS: They said they would do what?

MR. SHELDON: Well, I can't -- I'm paraphrasing what they said.

REP. CUMMINGS: Well, paraphrase as best you can.

MR. SHELDON: But they would look at the full range of options that they might have as -- and I took that to mean a potential challenge to the award.

REP. CUMMINGS: And did they challenge it yet?

MR. SHELDON: They have not.

REP. CUMMINGS: All right. And Mr. Sheldon, I understand that you are a political appointee and that you made this award decision, which has been sufficient for some to claim that the grant decision was politicized. Was it appropriate for you to make the decision?

MR. SHELDON: All assistant secretaries, to my knowledge, historically are given the authority to make decisions on grants. As a matter of fact, in the Administration for Children and Families, I approve all grant awards.

REP. CUMMINGS: And did you or anyone else at HHS give any of the applicants an unfair advantage during the process?

MR. SHELDON: No.

REP. CUMMINGS: And what was your primary purpose and goal when you made your decision about the grants?

MR. SHELDON: My primary purpose and goal, as I indicated in my opening statement, is what was in the best interest of these victims.

REP. CUMMINGS: And finally -- and thank you for your indulgence, Mr. Chairman -- so it was not a decision based on promoting a political party or a decision based on your dislike of the principles of the Catholic Bishops; is that right?

MR. SHELDON: That is correct.

REP. CUMMINGS: As I said in the beginning of the hearing, the ultimate goal here today is to help the victims. We would all benefit from hearing the voices of the human-trafficking victims and their advocates on why reproductive health services are so critical, and I'm sure we will in the future.

Mr. Sheldon, Mr. Negash, I want to thank both of you.

And thank you very much.

REP. ISSA: I thank the gentleman.

In order to preserve the normal member going last, what I'm going to do is skip this round, recognize the gentleman from New Jersey, and then I'll wrap up with just a few questions.

The gentleman's recognized for five minutes.

REP. SMITH: Mr. Sheldon, FOIA says that preference will be given to grantees under FOIA that will offer all victims referral to a medical provider who can provide or refer for the treatment of -- and of course, gynecological services in question here is abortion.

Given this language, how are grantees able to use any pro-life providers, even pro bono health providers who are pro life?

MR. SHELDON: There are several sub-grantees to the current grantees who are faith-based, pro-life --

REP. SMITH: So they're not bound in -- I'm talking about the referral to the victims, who they refer to in terms of health care, the actual health care. This reads, plain reading of the language, that we're talking that all victims referral to medical providers who can provide or refer for provision of treatment for abortion.

So there -- does this direct these individuals now to Planned Parenthood? We know that at least one of the applicants who got the award is looking to contract and set up an alliance with Planned Parenthood.

I mean, it precludes, it would seem, on the face of it, that pro- life OB/GYNs, for example, are out of the mix. Is that true?

MR. SHELDON: I don't believe that's the case. As a matter of fact --

REP. SMITH: Would you clarify that for the record?

MR. SHELDON: As I indicated, there are several sub-grantees of the new grantees --

REP. SMITH: But again, I'm talking --

MR. SHELDON: -- who share this --

REP. SMITH: I understand. Specifically about referral for medical care, that they be providers of abortion. That's what it reads.

MR. SHELDON: The decision as to what the outcome of that would be is, as it historically is in this country, has been between the medical provider and the woman, and that there is no difference in this as there would be --

REP. SMITH: The USCCB did that, as you know. They were out of it, as Chairman Issa mentioned earlier, under HIPAA.

MR. SHELDON: I think if you will look at the language of the USCCB you will find it was much more restrictive than that.

REP. SMITH: Okay. If you can clarify the original question for the record.

Let me ask you, in written form: Is the strong preference language for abortion in any way related to the ACLU lawsuit? Did anyone from or associated with the ACLU encourage the change in the contract with anyone within the Obama administration? Again, getting back to origins, whose idea was this, and did this language in any way emanate, or was it supported by or perhaps (proposed ?) by any pro- abortion NGO? First question.

Second, on capacity, Tapestry, in its application, said it had \$400,000 annually, which means that this grant alone that it got will triple what it has at its disposal to use. ORR said it would give priority to those organizations with an established nationwide or geographically significant structure.

We're talking about a group that may not be able to meet this huge burden that has been put on them -- again, the tripling.

Let me ask Mr. Negash, did HHS make changes to the funding opportunity announcement specifically to evade the conscience protections currently in law?

MR. NEGASH: Throughout the development of the funding announcement we actually worked with the office of general counsel to make sure that the language in the funding announcement is consistent with existing laws.

REP. SMITH: So it wasn't in any way, shape or form to evade the conscience clause by writing the specs in a way that Catholic USCCB need not apply?

MR. NEGASH: I believe that funding announcement was written not to include or exclude anybody.

REP. SMITH: Could I get -- could we get, the committee get, a copy of the general counsel's written statement, advice, guidance, whatever it is they conveyed to you to make these decisions at the time that these decisions remained -- were being made? Not now; we want to know what was contemporaneous with the decision-making process. Would you do that?

MR. NEGASH: (Off mike.)

REP. SMITH: Let me again with the ACLU case, if you could speak to this, Mr. Sheldon: Was it ever discussed? Was the ACLU in contact? Please respond.

MR. SHELDON: I was aware of the ACLU lawsuit, but it was not discussed in conjunction with the decision-making process.

REP. SMITH: At all?

MR. SHELDON: At all, or to my knowledge, was ACLU -- they were not contacting me. I do not believe they were contacting anybody in the Administration for Children and Families.

REP. SMITH: Are each of the grantees as of December 1st, as of today, performing exactly as prescribed in the FOIA?

MR. SHELDON: I believe that they are -- in response to that, yes, I believe they are.

REP. SMITH: Could you provide a detailed analysis, a snapshot, as of today, whether or not there's been a diminution of service as the baton has been handed over from USCCB to the three NGOs?

MR. SHELDON: Yes.

REP. SMITH: And finally, with regards to training, the FOIA was very clear about training.

Matter of fact, the language of the legislation is very --

REP. ISSA: If the gentleman would make this his last question, please.

REP. SMITH: Oh, I'm out of time, okay.

Do I have time for the question, or no?

REP. ISSA: We'll be indulgent for a last question, but we're going to wrap up very soon. We've technically gone over our limit.

REP. SMITH: Mr. Chairman, thank you very much.

REP. ISSA: Of course.

REP. SMITH: From the information provided to the committee, it appears only one of the successful applications, Heartland, included something approaching the required certification on training.

If this is correct, does HHS think it's appropriate for the well-being and recovery of trafficking victims for the persons providing services to have completed training in connection with trafficking persons? Why and how was this overlooked?

MR. SHELDON: I believe that all of the grantees that we ultimately made the decision are qualified to provide these services.

REP. SMITH: Training? Training?

MR. SHELDON: Yes.

REP. SMITH: Do you say they are adequate and they're ready to go right now?

MR. SHELDON: I believe so.

REP. SMITH: Could you back that up as well for the written record with precision?

REP. ISSA: I thank the gentleman --

REP. SMITH: I thank my --

REP. ISSA: I thank you for your participation here today.

I recognize myself, and I'm going to try and close up on a number of issues.

Following up with Mr. Smith: On Tapestry, an organization with only a few hundred thousand dollars in revenue, a CFO who is not qualified, by your own statements, I would appreciate your coming back and making for the record some documentation of why they were not at a minimum high risk for people already at high risk.

I think that that's -- it's one of the areas that hasn't been focused on enough, but clearly, we're going to follow up because from our evaluation -- notwithstanding that you could have awarded to only one organization or only two, and you only had one other national organization, to pick an organization that had almost no revenues.

CFO -- one of the most critical people in this kind of activity, having no qualifications in this area, does beg a question of competence that we're seriously concerned about, because we think the numbers were in some ways not even as positive of the difference in these organizations. And again, I would have respected a single award, not to the Catholic Bishops, perhaps more than the award the way we saw it.

But let me go through the question that has occupied most of the time today. Under the executive order, I'm going to read a portion of it to make sure we get it officially in the record, but additionally the executive order will be placed in the record, without objection. But what I read in (g) for faith-based organizations in this executive order, it says, "Accordingly, the faith-based organization that applies for or participates in a social service program supported with federal financial assistance," and this sort of broadly qualifies in that definition, obviously, "may retain its independence and may continue to carry out its mission, including the definition, development, practice and expression of its religious beliefs" -- and this is the limitation; I want to make sure it gets in here too -- "provided that it does not use direct federal financial assistance that it receives for that purpose."

Now, that's the operative language that we found and believe applies, and in the response that goes back to this that we've been talking about, their response that you were not satisfied with, it says, "USCCB/MRS is committed to acting in accordance with Catholic teachings in administering the program, including the determination of allowable and unallowable cost."

Now for my question: If the Catholic bishops -- and I'm an -- (inaudible) -- Catholic, so not my denomination, but I'm very familiar with it. If the Catholic bishops had told you how to work around getting an abortion or birth control, wouldn't you agree, since you're familiar at least somewhat with it, that they would be violating their requirements?

In other words, we'd all be appalled if a Catholic priest or a bishop, in this case, told you how to get an abortion for a girl around them. Wouldn't that be wrong under their teachings, very clearly?

MR. SHELDON: Yes, and in effect what other faith-based organizations have done is not taken responsibility for that particular victim.

REP. ISSA: And that certainly would have been a potential workaround, but they couldn't -- they, under their faith, as I read it, could not be persecuted for not having an answer that would cause them to tell you how to basically do an abortion around them.

So their canons of ethics, their vows, prohibited them from answering the question that you say you went to them to get, which is, how do we work around your problem on providing abortions and birth control and sterilization? They gave you an answer that they were willing to work with your workarounds, but they couldn't. They clearly, under their religious, protected, faith-based executive order supportive, they couldn't tell you how to work around it.

Now, you just gave me the answer I've been waiting for all day. It's clear you could have said, we need to have a provision that you don't take cases of pregnant refugees, that when a refugee is determined to be pregnant that in fact you not take them.

Additionally, you could have said, for example -- and I'm not trying to run your department; I woefully would be inadequate to do any one part of government -- you could have said that certain sub-vendors had to be picked and that they had to be allowed to communicate pursuant to your needs to other organizations, and in most cases, the clinics would have already done this anyway.

You could have proposed those, couldn't you?

MR. SHELDON: Yes. You know, we got a response from another applicant which basically indicated how they would treat people of faith, people of Catholic teaching, and they volunteered that they would not refer victims to that particular entity.

REP. ISSA: Okay, so the system could have recognized, to use my example, because I grew up in a Jewish neighborhood, of the Orthodox Jew unable to drive you on Friday night. You could have suggested an effective workaround. They might have rejected it, might have accepted it, might have said, "We can't answer it, but we will perform to the best of our duty under the rules that you give us," which probably would have been their answer, which is, "We can't condone your decision, we can't predict the outcome, but we'll do what we can do."

And by the way, the fact that they didn't complain, my understanding is Christ didn't complain on the cross, either. Ultimately, some organizations do not complain as a matter of their faith.

So back to the real question that I want to close with: In this and dozens or hundreds or thousands of other examples that could occur in government when trying to deal with the executive order, isn't it within your authority under current law and, at least in my opinion, within your responsibility to try to find ways to move these two together, and in the future -- because this one's in our taillights -- in the future, wouldn't it be prudent for Health and Human Services and other government agencies to say, look, we have to look at effective ways to get around, the rabbi who can't drive to work after sundown on Friday, so to speak and -- or the Catholics who cannot perform abortions.

Isn't that something that if -- if in fact the Congress has said in the case of rape of a woman an abortion is legal to be paid for by government -- that's the current law, as I understand it -- if that's the case and somebody can't participate in it, isn't under the executive order it prudent that you develop the ability to reconcile to that limited extent, rather than only promoting organizations who, from some of our members, believe would promote abortion rather than the litmus test of could they participate in legal events?

MR. SHELDON: And that's exactly what I was trying to do by going back to the U.S. Conference of Catholic Bishops. We may disagree about where the primary responsibility lies --

REP. ISSA: But you don't disagree that a Catholic bishop who tells you how to get a girl an abortion would be going outside his beliefs. I mean, you already answered yes, you got that, that he -- in this case, only he -- couldn't tell you how to do it. So why in a way did you expect to get an answer from the Catholic bishops of how to work around getting a girl an abortion? Isn't that fundamentally, perhaps in hindsight, a mistake, where it should have been an initiative by HHS not asking people of faith to do and say and help you do what they cannot?

MR. SHELDON: I was basically taking the U.S. Conference of Catholic Bishops at their word when they basically said we would be willing to work on an alternative.

REP. ISSA: Right, they would work with an alternative. They could not give you that alternative. They could not tell you how to provide an abortion to somebody, because it's outside their faith.

I've gone way over my time. You've all been very indulgent. We do look forward to getting the rest of the materials for the record.

Again, the ranking member has a motion at this time; if he'd like to bring it up and discuss it, I certainly would be willing to.

REP. CUMMINGS: I want to thank you all, first of all, for your testimony.

Mr. Chairman, I had said at the beginning that there were -- we wanted to give more voice to the victims, and we asked for a day of hearings because we do not have those voices here today, and so I think we need to do both.

I think we need to have additional hearings as a committee, and I'm asking for the minority to have hearings, and we would love to have them next week. And so I renew my motion or request.

REP. ISSA: The letter has been received and we will advise you.

REP. CUMMINGS: Thank you.

REP. ISSA: And with that, the hearing is concluded and adjourned. (Sounds gavel.)