



INDEPENDENT SECTOR

*Advancing the common good
by leading, strengthening, and
mobilizing the independent sector.*

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October 18, 2005

The Honorable Michael Oxley
Chairman
House Financial Services Committee
Washington, DC 20515

The Honorable Barney Frank
Ranking Member
House Financial Services Committee
Washington, DC 20515

Dear Chairman Oxley and Ranking Member Frank:

On behalf of INDEPENDENT SECTOR (IS), a national, nonpartisan nonprofit organization representing more than 500 charities, foundations and corporate giving programs, I write in opposition to the inclusion of proposed anti-advocacy provisions in the pending Federal Housing Finance Reform Act of 2005 (H.R. 1461). INDEPENDENT SECTOR's members collectively represent tens of thousands of charitable groups in every state across the nation. As a long-standing advocate for the preservation and protection of the First Amendment rights of charitable organizations, INDEPENDENT SECTOR is deeply concerned about the ability of charitable organizations to engage in advocacy and nonpartisan electoral activities with private funds.

Specifically, we object to the proposed anti-advocacy provisions because they would render ineligible for grants from the Affordable Housing Fund (AHF) charitable organizations that have used private funds to lobby or engage in nonpartisan election activities - such as voter registration and education, assisting voters to apply for absentee ballots, or providing voters transportation to the polls - in the 12 months prior to application and would prohibit non-profit grantees from engaging in any of these activities in the future, even with their private funding. In addition, under the proposed language, non-profits that do not engage in such activities would still be disqualified from applying for Affordable Housing Fund grants if they are "affiliated" with an organization that does engage in such activities.

IS believes that the restrictions on the use of AHF funds in the Committee's reported bill and current law provide sufficient safeguards and limitations on the use of federal funds for advocacy by charitable institutions, including the prohibition on lobbying with federal funds and, for 501(c)(3) organizations, a ban on engaging in partisan electoral activities. While the creation of the AHF to support low-income housing projects is laudable, we believe that restricting the well-established First Amendment rights of charities as a condition of eligibility for such AHF grants is unnecessary and would likely be found unconstitutional.

We are particularly concerned that any provision included in H.R. 1461 restricting free speech and association rights protected by the First Amendment will have a chilling effect on all nonprofit organizations whether or not they would apply for a grant from the AHF. Enacting the proposed anti-advocacy provisions would set a precedent that could cause charities that receive other federal grant monies to fear that their access to such funds might be restricted if they do not curb their own advocacy and nonpartisan electoral activities.

Finally, permissible nonpartisan election activities run by nonprofit organizations – sectarian and non-sectarian alike - encourage good citizenship and civic engagement. Unfortunately, the proposed anti-advocacy provisions would undermine and needlessly restrict the ability of charitable organizations and their often vulnerable beneficiaries to engage in basic civic activities. The following are a few examples of the kinds of nonpartisan activities that would be prohibited if the proposed language is enacted:

- nonpartisan voter registration drives;
- transportation of the elderly and disabled persons to and from the polls in private vehicles using private funding;
- the use of space in a senior or low-income housing complex or at a faith-based organization as a polling station; or,
- providing assistance to shut-ins and/or nursing home residents to apply for absentee ballots.

We cannot imagine that the advocates of the proposed provisions intended such an unfortunate result. These efforts are all nonpartisan, provide an essential service to this country and its citizenry, and should be encouraged and expanded, not restricted.

We appreciate your leadership on this issue and respectfully urge you to resist efforts to include proposed anti-advocacy provisions in the Federal Housing Finance Reform Act of 2005 (H.R. 1461) that would abridge the right of charitable organizations to use privately contributed dollars to support advocacy and nonpartisan electoral activities in accordance with their missions and in service to their beneficiaries.

Sincerely,



Diana Aviv
President and CEO
INDEPENDENT SECTOR

cc: Representative J. Dennis Hastert, Speaker of the House
Representative Roy Blunt, Acting Majority Leader
Representative Nancy Pelosi, Minority Leader
Representative David Dreier, Chair, Rules Committee
Representative Louise Slaughter, Ranking Member, Rules Committee