

rule. The Department estimates that the cost of providing intercountry adoption services, excluding travel and local services costs, may be from 25% to 80% lower than the estimated range of \$20,000 to \$30,000 per adoption case. If it is assumed that the costs would be 25% less than the estimated range, then the costs of providing adoption services may range from between \$15,000 to \$22,500 per adoption case. If it is assumed that the costs would be 80% less than the estimated range, then the costs of providing adoption services may range from \$4,000 to \$6,000 per adoption case. It is this segment of adoption services costs (which excludes travel and local in-country services costs) that is most likely to be affected by the proposed rule. Thus, the total size of the non-profit sector to be regulated, rather than ranging from \$400 to \$600 million, may be viewed as ranging from \$80 million to \$450 million.

At least initially, the number of agencies and persons affected by the proposed rule is likely to be small because the current number of cases subject to the Convention is small. Currently, most intercountry adoptions to the United States are from non-Convention countries. For example, for FY 2002, the number of cases with Convention countries was 1,433; for FY 2001, the number of cases with Convention countries was 1,680; for FY 2000, the number of cases with Convention countries was 2,025. (The number of intercountry adoption cases from Convention countries to the United States to date has changed from year to year for a variety of reasons, including because new countries ratify or accede to the Convention, or sometimes a Convention country declares a moratorium on intercountry adoptions.) In future years, any increase in the cost of the rule may be incremental, as new countries join the Convention and agencies and persons that assist with adoptions in those countries are required to come into compliance.

Using the data on the number of adoptions from Convention countries, the Department notes as follows: For FY 2002, the percentage of Convention cases out of a total of 21,378 was 6.7%; for FY 2001, the percentage of Convention cases out of a total of 19,224 was 8.7%; for FY 2000, the percentage of Convention cases out of a total of 18,477 was 11.0%. It is only those agencies and persons who will be providing adoption services in cases where the other country is a party to the Convention that will have to comply immediately with the requirement to become accredited or approved.

Therefore, intercountry adoptions with countries party to the Convention account for adoption services costs in the range of \$28.6 million to \$43.0 million when estimated travel/accommodations and local services costs are included in the cost of providing adoption services in a case. Similarly, intercountry adoptions with countries party to the Convention account for adoption services revenues in the range of \$5.7 million to \$32.3 million when estimated travel/accommodations and local services costs are excluded. Under this analysis, the Department's estimates show that the total costs for adoption services provided (which could range from \$5.7 million to \$43.0 million) in the number of cases immediately subject to the proposed rule is very likely to be less than the \$100 million Executive Order 12866 threshold.

Furthermore, the Department expects the total cost burden of the rule to be substantially less than the current total estimated cost of providing adoption services regardless of which analysis is used to calculate the total yearly costs associated with providing adoption services. During the consultation process thus far, the Department has not received any information that would indicate that the cost to the adoption community of compliance with the proposed regulations would be near the current cost of providing adoption services. Rather, all indications are that the cost to comply will be a fraction increase in the current cost of providing adoption services. Therefore, the Department considers the total cost of adoptions to be a reasonable upper limit on the possible cost of the proposed rule. The Department, however, requests comments on its cost estimates and in particular requests that commenters address the following questions: (1) How many agencies are likely to seek full accreditation in accordance with subpart F rather than temporary accreditation under subpart N? (2) What are accrediting entities likely to charge the agencies and persons for the accreditation and approval process? (3) Is the estimated cost of providing adoption services (estimated to range from \$20,000 to \$30,000) in a particular case a current reasonable estimate? (4) What proportion of the costs of rendering adoption services are pass-through costs forwarded to foreign entities providing local services in the sending country? (5) What proportion of the costs for adoption services in a particular case is for the costs of travel and accommodations? (6) How many persons (for-profits and individuals)

plan to seek approval? (7) What are the estimated costs agencies and persons will have to expend to comply with the standards in subpart F? Specifically, commenters should provide information on the costs of obtaining insurance coverage as required by the standards in § 96.45 and § 96.46; the costs of retaining personnel that meet the professional and educational requirements in § 96.37; and the costs of providing the mandatory training to prospective adoptive parent(s) in § 96.48. Comments or concerns about the cost impact of any other standard in subpart F or subpart N are welcome. It would be helpful if commenters supply information and data to support any comments on these enumerated issues.

The Department also considered the potential impact of these regulations on small entities, as required by the Regulatory Flexibility Act and Executive Order 13272. The Department has sought to ensure that the standards do not unnecessarily or adversely affect the currently sound practices of small agencies and persons, especially since almost all of the agencies and persons covered would meet a Small Business Administration (SBA) definition of a small entity for this type of non-profit service provider. Concerns about minimizing any increases in the cost of intercountry adoption and any unnecessary adverse impact of these regulations on small entities were of utmost importance in the Department's decision-making process, and great care was taken to address these concerns while still seeking to ensure compliance with the Convention and the IAA mandate for comprehensive regulation of adoption service providers. To minimize the impact on small entities, the Department developed regulations that are performance-based accreditation standards (see subpart F) as opposed to design-oriented, licensing criteria. Consistent with the IAA, the regulations also provide a special tiering set-up and a different implementation timetable for small agencies by allowing for a temporary accreditation process (see subpart N). Also, again consistent with the IAA, the regulations contain exemptions for small providers, such as home study preparers, and permit agencies and persons to act as supervised providers rather than requiring them to complete the full accreditation or approval process (see subpart C).

The Department is cognizant that the cost of providing adoption services is closely related to the level and type of regulation. The Department is aware that ultimately the costs of accreditation and approval will be passed on to