

**DEPARTMENT OF JUSTICE****28 CFR Parts 31, 33, 38, 90, 91, and 93****[Docket No. OAG 106; AG Order No. 2687–2003]****RIN 1105–AA83****Participation in Justice Department Programs by Religious Organizations; Providing for Equal Treatment of all Justice Department Program Participants****AGENCY:** Office of the Attorney General, Justice.**ACTION:** Proposed rule.

**SUMMARY:** This rule proposes to implement executive branch policy that, within the framework of constitutional church-state guidelines, faith-based organizations should be able to compete on an equal footing with other organizations for the Department's funding. This proposed rule would revise Department regulations pertaining to certain programs to bring them into compliance with this policy and to ensure that these programs are implemented in a manner consistent with the requirements of the Constitution, including the Religion Clauses of the First Amendment.

**DATES:** Comments must be submitted by December 1, 2003.

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposed rule to the Task Force for Faith-Based and Community Initiatives, Office of the Deputy Attorney General, Room 4413, Department of Justice, 950 Pennsylvania Avenue, NW., Washington, DC 20530.

Communications should refer to the above docket number and title. Facsimile (FAX) comments are not acceptable. A copy of each communication submitted will be available for inspection and copying between 8:30 a.m. and 5:30 p.m. at the above address.

**FOR FURTHER INFORMATION CONTACT:** Patrick Purtill, Director, Task Force for Faith-Based and Community Initiatives, Department of Justice, Room 4409, 950 Pennsylvania Avenue, NW., Washington, DC 20530; telephone: (202) 305–8283 (this is not a toll-free number). Hearing or speech-impaired individuals may access this telephone number via TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8339. For program-specific information, contact the following offices: Office of Justice Programs—Bureau of Justice Assistance, (202) 307–0635; Office of Juvenile Justice Delinquency Prevention, (202) 307–

5924; National Institute of Justice, (202) 307–2942; Drug Court Programs Office, (202) 616–5001; Office of Victims of Crime, (202) 514–4696; Office of Violence Against Women, (202) 307–6026; Executive Office for Weed and Seed, (202) 616–1152; Bureau of Prisons, 202–307–3198; National Institute of Corrections, (202) 307–3106; Community Oriented Policing Services (COPS), (202) 307–1480 (these are not toll-free numbers). Hearing or speech-impaired individuals may access these telephone numbers via TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8339.

**SUPPLEMENTARY INFORMATION:****I. Background**

Religious organizations, including religiously affiliated organizations, are an important part of the social services network of the United States, offering a multitude of social services to those in need. In addition to places of worship, religious organizations include small nonprofit organizations created to provide one program or multiple services, as well as neighborhood groups formed to respond to a crisis or to lead community renewal. Religious groups everywhere, either acting alone or as partners with other service providers and government programs, serve the poor, help to reduce crime, addiction, and delinquency, and help to strengthen families and rebuild communities.

All too often, however, Federal policy and programs have not recognized religious groups as resources for providing social assistance. Federal, state, and local governments have often imposed barriers to the participation of religious organizations in social service programs, including unwarranted regulatory barriers.

President Bush has directed the federal agencies, including the Justice Department, to take steps to ensure that federal policy and programs are fully open to faith-based and community groups in a manner that is consistent with the Constitution. The Administration believes that religiously affiliated, or faith-based, groups possess an under-appreciated ability to meet the needs of disadvantaged Americans, including those within the criminal justice system, and to revitalize distressed neighborhoods. The Administration believes that there should be an equal opportunity for *all* organizations—both religious and nonreligious—to participate as partners in federal programs.

As part of these efforts, President Bush issued Executive Order 13198 on January 29, 2001. The Order, which was

published in the **Federal Register** on January 31, 2001 (66 FR 8499), created Centers for Faith-Based and Community Initiatives in five cabinet departments—HUD, Health and Human Services, Education, Labor, and Justice. The Executive Order charged the Centers to identify and eliminate regulatory, contracting, and other programmatic obstacles to the equal participation of faith-based and community organizations in the provision of social services by their Departments. On December 12, 2002, President Bush issued Executive Order 13280. That Order, published in the **Federal Register** on December 16, 2002 (66 FR 77145), created Centers in two additional agencies—the United States Agency for International Development and the Department of Agriculture—and charged those Centers with duties similar to those set forth in Executive Order 13198. On December 12, 2002, President Bush also issued Executive Order 13279, published in the **Federal Register** on December 12, 2002 (67 FR 77141). That Executive Order charges executive branch agencies to give equal treatment to faith-based and community groups that apply for funds to meet social needs in America's communities. President Bush called for an end to discrimination against faith-based organizations and, consistent with the First Amendment to the United States Constitution, ordered implementation of these policies throughout the executive branch, including, among other things, allowing organizations to retain their religious autonomy over their internal governance and composition of boards, and over their display of religious art, icons, scriptures, or other religious symbols, when participating in government-funded programs. President Bush directed each executive branch agency, including the Department of Justice, to implement these policies. This proposed rule is part of the Department's efforts to fulfill its responsibilities under these Executive Orders.

**II. This Proposed Rule****A. Purpose of Proposed Rule**

Consistent with the President's initiative, this proposed rule would revise the Department's regulations to remove unwarranted barriers to the equal participation of faith-based organizations in the Department's programs. The objective of this proposed rule is to ensure that the Department's programs are open to all qualified organizations, regardless of their religious character, and to establish clearly the proper uses to