

organizations alone to provide additional assurances, above and beyond those any other organization is required to provide, that they will comply with Department requirements. All organizations that participate in Department programs, including religious ones, must carry out eligible activities in accordance with all program requirements and other applicable requirements governing the conduct of Department-funded activities, including those prohibiting the use of direct financial assistance from the Department to engage in inherently religious activities. In addition, to the extent that provisions of the Department's agreements, covenants, policies, or regulations disqualify religious organizations from participating in the Department's programs because they are motivated or influenced by religious faith to provide social services, or because of their religious character or affiliation, the proposed rule removes that restriction, which is inconsistent with governing law.

### III. Findings and Certifications

#### *Executive Order 12866—Regulatory Planning and Review*

The Office of Management and Budget (OMB) reviewed this rule under Executive Order 12866, *Regulatory Planning and Review*. OMB determined that this rule is a "significant regulatory action" as defined in section 3(f) of the Order (although not an economically significant regulatory action under the Order) and, accordingly, has reviewed the rule. Any changes made to the rule as a result of that review are identified in the docket file, which is available for public inspection in the office of the Task Force for Faith-based and Community Initiatives, Room 4409, 950 Pennsylvania Ave., NW., Washington, DC 20530.

#### *Unfunded Mandates Reform Act*

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments, and on the private sector. This proposed rule does not impose any Federal mandates on any State, local, or tribal governments, or the private sector, within the meaning of the Unfunded Mandates Reform Act of 1995.

#### *Executive Order 13132—Federalism*

Executive Order 13132, *Federalism*, prohibits an agency from publishing any rule that has federalism implications if

the rule either imposes substantial direct compliance costs on state and local governments and is not required by statute, or the rule preempts state law, unless the agency meets the consultation and funding requirements of section 6 of the Executive Order. Consistent with Executive Order 13132, the Department specifically solicits comments from state and local government officials on this proposed rule.

#### *Environmental Impact*

A Finding of No Significant Impact with respect to the environment has been made in accordance with Department regulations at 28 CFR part 61, which implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332). The Finding of No Significant Impact is available for public inspection between the hours of 8:30 a.m. and 5:30 p.m. weekdays in the Task Force for Faith-based and Community Initiatives, Office of the Deputy Attorney General, Room 4413, Department of Justice, 950 Pennsylvania Ave., NW., Washington, DC 20530.

#### *Regulatory Flexibility Act*

The Attorney General, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed and approved this proposed rule and in so doing certifies that this rule will not have a significant economic impact on a substantial number of small entities. The proposed rule would not impose any new costs, or modify existing costs, applicable to Department grantees. Rather, the purpose of the proposed rule is to remove policy prohibitions that currently restrict the equal participation of religious or religiously affiliated organizations (large and small) in the Department's programs. Notwithstanding the Department's determination that this rule will not have a significant economic effect on a substantial number of small entities, the Department specifically invites comments regarding any less burdensome alternatives to this rule that will meet the Department's objectives as described in this preamble.

#### *Catalog of Federal Domestic Assistance Numbers*

The Catalog of Federal Domestic Assistance program numbers for the programs affected by this rule are 16.579, 16.592, 16.593, 16.523, 16.540, 16.548, 16.549, 16.575, 16.588, 16.580, 16.613, 16.202, 16.585, 16.595, 16.560, 16.563, 16.541, 16.542, 16.728, 16.729, 16.730, 16.731, 16.732, 16.543, 16.544, 16.547, 16.726, 16.547, 16.582, 16.583,

16.524, 16.525, 16.587, 16.589, 16.602, 16.005, 16.108, 16.320, 16.526, 16.710, 16.110.

#### **List of Subjects**

##### *28 CFR Part 31*

Grant programs—law, Juvenile delinquency, Reporting and recordkeeping requirements.

##### *28 CFR Part 33*

Administrative practice and procedure, Grants.

##### *28 CFR Part 38*

Administrative practice and procedure, Grant programs, Reporting and recordkeeping requirements, Nonprofit organizations.

##### *28 CFR Part 90*

Grant programs, Judicial administration—violence against women.

##### *28 CFR Part 91*

Grant Programs—correctional facilities.

##### *28 CFR Part 93*

Grant programs, Judicial administration.

For the reasons stated in the preamble, the Department proposes to amend chapter I of Title 28 of the Code of Federal Regulations as follows:

### **PART 31—OJJDP GRANT PROGRAMS**

1. The authority citation for part 31 is revised to read as follows:

**Authority:** 42 U.S.C 5601 through 5785; Pub. L. 108–7, 117 Stat. 11; 5 U.S.C. 301.

2. Add § 31.404 to subpart A to read as follows:

#### **§ 31.404 Participation by faith-based organizations.**

The funds provided under this part shall be administered in compliance with the standards set forth in part 38 (Equal Treatment for Faith-based Organizations) of this chapter.

3. In § 31.502, add paragraph (a)(3) to read as follows:

#### **§ 31.502 Assurances and plan information.**

(a) \* \* \*

(3) The funds provided under this part shall be administered in compliance with the standards set forth in part 38 (Equal Treatment for Faith-based Organizations) of this chapter.

\* \* \* \* \*

### **PART 33—BUREAU OF JUSTICE ASSISTANCE GRANT PROGRAMS**

4. The authority section for part 33 is revised to read as follows: