

regulatory flexibility analysis, and subjected to the report requirements, pre-issuance assessment, and congressional review that are mandatory by statute.

Response: The Department does not agree that this is a "major regulation" thereby requiring a regulatory flexibility analysis and subjecting it to reporting requirements, pre-issuance assessment, and congressional review that are mandated by statute in certain circumstances. As indicated in the following section, this rule does not require the collection of new information, nor does it call for the creation of programs or services beyond those currently being provided. Rather, it establishes conditions of participation for faith-based organizations for programs and services already being funded through the CSBG Act.

Paperwork Reduction Act of 1995

No new information collection requirements are imposed by these regulations, nor are any existing requirements changed as a result of their promulgation. Therefore, the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), regarding reporting and record keeping, do not apply.

Regulatory Flexibility Analysis

The Secretary certifies, under 5 U.S.C. 605(b), as enacted by the Regulatory Flexibility Act (Pub. L. 96-354), that this rule will not result in a significant impact on a substantial number of small entities.

Regulatory Impact Analysis

Executive Order 12866 requires that regulations be reviewed to ensure that they are consistent with the priorities and principles set forth in the Executive Order. The Department has determined that this rule is consistent with these priorities and principles. This rule is considered a "significant regulatory action" under 3(f) of the Executive Order, and therefore has been reviewed by the Office of Management and Budget.

Unfunded Mandates Reform Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995 requires that a covered agency prepare a budgetary impact statement before promulgating a rule that includes any Federal mandate that may result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year.

The Department has determined that this rule would not impose a mandate that will result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of more than \$100 million in any one year.

Congressional Review

This regulation is not a major rule as defined in 5 U.S.C. chapter 8.

Assessment of Federal Regulation and Policies on Families

Section 654 of the Treasury and General Government Appropriations Act of 1999 requires Federal agencies to determine whether a proposed policy or regulation may affect family well-being. If the agency's determination is affirmative, then the agency must prepare an impact assessment addressing seven criteria specified in the law. These regulations will not have an impact on family well-being as defined in the legislation.

Executive Order 13132

Executive Order 13132, Federalism, requires that Federal agencies consult with State and local government officials in the development of regulatory policies with federalism implications. Consistent with Executive Order 13132, we specifically solicited comment from State and local government officials on this rule.

Executive Order 13175: Consultation and Coordination with Indian Tribal Governments

Executive Order 13175 (65 FR 67249, November 6, 2000) requires us to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." Although it is not clear that the rule will have tribal implications, we specifically solicited comments on this rule from tribal officials.

List of Subjects in 45 CFR Part 1050

Grant programs-social programs.
(Catalog of Federal Domestic Assistance Programs No. 93569 Community Services Block Grant)

Dated: September 22, 2003.

Wade F. Horn,

Assistant Secretary for Children and Families.

Tommy G. Thompson,

Secretary of Health and Human Services.

■ For the reasons discussed above, we are adding to 45 CFR chapter X a new part 1050 to read as follows:

PART 1050—CHARITABLE CHOICE UNDER THE COMMUNITY SERVICES BLOCK GRANT ACT PROGRAMS

Sec.

1050.1 Scope.

1050.2 Definitions.

1050.3 What conditions apply to the Charitable Choice provisions of the CSBG Act?

Authority: 42 U.S.C. 9901 *et seq.*

§ 1050.1 Scope.

This part applies to programs authorized under the Community Services Block Grant Act (CSBG Act). Title 42 U.S.C. 9901, 9913, 9920, 9921, 9922, 9923.

§ 1050.2 Definitions.

Applicable program means any program authorized under Title II of the Community Opportunities, Accountability, and Training and Education Act of 1998, 42 U.S.C. 9901, *et seq.*

Direct funding, directly funded or funding provided directly means funding that is provided to an organization directly by a governmental entity or an intermediate organization that has the same duties as a governmental entity, as opposed to funding that an organization receives as a result of the genuine and independent private choice of a beneficiary.

Intermediate organization means an organization that is authorized by the terms of a contract, grant or other agreement with the Federal Government, or a State or local government, to select other non-governmental organizations to provide assistance under an applicable program. For example, when a State uses CSBG Act funds to pay for technical assistance services provided by a private entity and also authorizes that entity to subcontract for a portion of the technical assistance effort, the private entity is an intermediate organization.

Program beneficiary or recipient means an individual who receives services under a program funded in whole or part by an applicable program.

Program participant means a public or private entity that has received financial assistance under an applicable program.

§ 1050.3 What conditions apply to the Charitable Choice provisions of the CSBG Act?

These Charitable Choice provisions apply whenever the Federal government, or a State or local government, uses funds under the CSBG Act to provide awards, contracts, or other assistance under any program authorized in the Community Services