



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

THE DIRECTOR

January 26, 1999

M-99-10

MEMORANDUM FOR HEADS OF EXECUTIVE DEPARTMENTS, AGENCIES,
AND INDEPENDENT ESTABLISHMENTS

FROM:

Jacob J. Lew
Director

A handwritten signature in black ink, appearing to be "J. Lew", written over the printed name and title.

SUBJECT:

Assessment of Federal Regulations and Policies on Families

All agencies need to be aware of the recently enacted provision regarding the "Assessment of Federal Regulations and Policies on Families." This provision, Section 654 of the Treasury and General Government Appropriations Act, 1999, is reprinted in the attachment. This government-wide provision applies to Executive departments, Government corporations, and independent establishments. Section 654 went into effect on October 21, 1998, at the time that the Appropriations Act was signed into law. Accordingly, Section 654 applies to proposed policies and regulations that are under consideration.

Section 654 is not a new provision. It is intended to reinstate Executive Order 12606, "The Family," signed on September 2, 1987, and revoked on April 21, 1997. In order to ensure that agencies carry out Section 654 assessments in appropriate circumstances, it may be beneficial for an agency to look back to the experience it gained in implementing E.O. 12606.

For those regulations for which a family assessment is appropriate, agencies should discuss the family assessment in the preamble to both the NPRM and the final rule; a certification is required only for a final rule that may affect the well-being of the family. As agencies submit their final rules to Congress under the Congressional Review Act (5 U.S.C. Chapter 8), a statement of the certification in the preamble to the final rule should suffice in satisfying the requirement in Section 654(d)(1)(A) for submitting the certification to Congress.

Since OMB is required to submit to Congress each year copies of agencies' certifications (together with any rationales for implementing a policy or regulation that "may negatively affect family well-being"), we ask that you also prepare each certification as a free-standing document. Certifications should be submitted (in written form or through e-mail) to the Office of Information and Regulatory Affairs (OIRA). Please start with the title, "Family Assessment Certification," and then include with the certification the name of the policy or regulation that is the subject of the family assessment, the agency program with which the policy or regulation is associated, the name of the responsible agency/component, and the name and telephone number

of an agency contact. In the case of regulations that are subject to review under Executive Order 12866, the certifications should be included as part of the agency's regulatory package submission to OIRA. Other certifications should be submitted directly to the OIRA desk officer for the agency.

If your staff have any questions concerning Section 654, they may contact Mr. Jefferson Hill at (202) 395-3176.

Attachment

Sec. 654. Assessment of Federal Regulations and Policies on Families.

(a) Purposes.--The purposes of this section are to--

- (1) require agencies to assess the impact of proposed agency actions on family well-being; and**
- (2) improve the management of executive branch agencies.**

(b) Definitions.--In this section--

- (1) the term ``agency" has the meaning given the term ``Executive agency" by section 105 of title 5, United States Code, except such term does not include the General Accounting Office; and**
- (2) the term ``family" means--**
 - (A) a group of individuals related by blood, marriage, adoption, or other legal custody who live together as a single household; and**
 - (B) any individual who is not a member of such group, but who is related by blood, marriage, or adoption to a member of such group, and over half of whose support in a calendar year is received from such group.**

(c) Family Policymaking Assessment.--Before implementing policies and regulations that may affect family well-being, each agency shall assess such actions with respect to whether--

- (1) the action strengthens or erodes the stability or safety of the family and, particularly, the marital commitment;**
- (2) the action strengthens or erodes the authority and rights of parents in the education, nurture, and supervision of their children;**
- (3) the action helps the family perform its functions, or substitutes governmental activity for the function;**
- (4) the action increases or decreases disposable income or poverty of families and children;**
- (5) the proposed benefits of the action justify the financial impact on the family;**
- (6) the action may be carried out by State or local government or by the family; and**
- (7) the action establishes an implicit or explicit policy concerning the relationship between the behavior and personal responsibility of youth, and the norms of society.**

(d) Governmentwide Family Policy Coordination and Review.--

(1) Certification and rationale.--With respect to each proposed policy or regulation that may affect family well-being, the head of each agency shall--

- (A) submit a written certification to the Director of the Office of Management and Budget and to Congress that such policy or regulation has been assessed in accordance with this section; and**
- (B) provide an adequate rationale for implementation of each policy or regulation that may negatively affect family well-being.**

(2) Office of management and budget.--The Director of the Office of Management and Budget shall--

- (A) ensure that policies and regulations proposed by agencies are implemented consistent with this section; and**
- (B) compile, index, and submit annually to the Congress the written certifications received pursuant to paragraph (1)(A).**

- (3) Office of policy development.--The Office of Policy Development shall--**
- (A) assess proposed policies and regulations in accordance with this section;**
 - (B) provide evaluations of policies and regulations that may affect family well-being to the Director of the Office of Management and Budget; and**
 - (C) advise the President on policy and regulatory actions that may be taken to strengthen the institutions of marriage and family in the United States.**
- (e) Assessments Upon Request by Members of Congress.--Upon request by a Member of Congress relating to a proposed policy or regulation, an agency shall conduct an assessment in accordance with subsection (c), and shall provide a certification and rationale in accordance with subsection (d).**
- (f) Judicial Review.--This section is not intended to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or any person.**