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EXECUTIVE OFFICE OF THE PRESIDENT OF THE UNITED STATES

BEFORE THE  
SUBCOMMITTEE ON ENERGY POLICY, NATURAL RESOURCES, AND  
REGULATORY AFFAIRS  
COMMITTEE ON GOVERNMENT REFORM  
AND THE SUBCOMMITTEE ON REGULATORY REFORM AND OVERSIGHT  
COMMITTEE ON SMALL BUSINESS  
UNITED STATES HOUSE OF REPRESENTATIVES

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Good afternoon, Messrs. Chairmen and Members of these Subcommittees. I am John D. Graham, Ph. D., Administrator, Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget (OMB). Thank you for inviting me today to discuss implementation of the Small Business Paperwork Relief Act of 2002 (SBPRA). I have enjoyed working with you and the Subcommittees to reduce the paperwork burden that Federal requirements impose on small businesses. You asked me to testify about the status of each SBPRA mandate, including agency single points of contact for small businesses, agency compliance assistance resources, agency enforcement reports, and the OMB-led task force. In addition, you invited me to testify about specific reductions in reporting and recordkeeping requirements that exceeded 100,000 hours accomplished since your July 18<sup>th</sup> hearing or planned in 2004 for small business.

By way of introduction, the Act imposes two specific requirements on OMB. First, on an annual basis, in consultation with the Small Business Administration, OMB must publish in the Federal Register and make available on the Internet, on an annual basis, a list of compliance assistance resources available to small businesses. Second, OMB must convene and chair a task force to study the feasibility of streamlining requirements with respect to small business concerns regarding collections of information and strengthening dissemination of information.

Aside from these two specific duties assigned to OMB, the Act also imposes four specific requirements on certain Federal agencies:

- The Act requires agencies to establish, no later than June 28, 2003, one point of contact to act as liaison between the agency and small businesses (as defined in Section 3 of the Small Business Act (15 USC 632)).
- The Act requires agencies to make efforts to further reduce the information collection burden for small businesses with fewer than 25 employees.

- The Act requires the heads of certain departments and agencies to designate a representative or representatives to serve on a task force on information collection and dissemination.
- The Act requires each covered agency to submit an initial regulatory enforcement report to Congress by December 31, 2003, and a final report to Congress by December 31, 2004.

In my testimony today, I will summarize OMB activity to date with respect to each of these six SBPRA requirements: the two specifically required of OMB, and the four that relate to covered Federal agencies. In addition, I will identify specific reductions in reporting and recordkeeping requirements of at least 100,000 hours either accomplished since the July 2003 hearing of this Subcommittee or planned in 2004 for small business.

### **OMB Commitment to Paperwork Reduction**

The goal of the SBPRA is to reduce the paperwork burden on small business. OMB is committed to reducing the regulatory and paperwork burdens that America's small businesses deal with every day. In previous testimony, I listed three strategies that OMB uses to reduce needless paperwork burden on small business: e-government, traditional paperwork reduction efforts, and regulatory review. A fourth strategy—statutory reform—is in the purview of Congress. The SBPRA Task Force, in its first report, emphasized the e-government strategy. As that report noted, e-government is increasingly becoming the principal means by which citizens and businesses engage with their government. The President sees electronic government not only as a means for bringing more services to the American citizen and businesses via the Internet, but also as a tool for reducing the Federal government's paperwork burden.

Because of our commitment to paperwork reduction, we take SBPRA implementation seriously. Not only has OMB met its statutory requirements to issue a Task Force report by June 28, 2003 and publish a list of compliance assistance resources by that date, we have also undertaken actions not required under the statute but which, we believe, will help ensure that agencies meet their SBPRA obligations. For example, we have informed agencies of their responsibilities under the Act. This communication was in the form of an October 28, 2003 memorandum to the President's Management Council. In the memorandum, I drew special attention to the December 31, 2003 deadline for submission of regulatory enforcement reports to Congress.

### **Annual List of Compliance Assistance Resources**

The Act requires OMB to publish, on an annual basis, a list of compliance assistance resources available to small business. Because we thought it would be helpful for the public to have the list of agency contacts along with the list of compliance

assistance resources, OMB published these lists together. These lists are available on the OMB website (<http://www.whitehouse.gov/omb/infoereg/infocoll.html#sbpra>) and the SBA website (<http://www.sba.gov/ombudsman/compliance/complianceassist.html>).

Compilation of this list of compliance assistance resources would have been impossible were it not for the efforts of each Federal agency in developing the summaries, descriptions, and lists of resources. Federal agencies have established numerous programs to assist small businesses, and the list on the OMB and SBA websites is testimony to their long-standing interest in this issue.

The SBA's National Ombudsman significantly aided OMB in the compilation of the compliance assistance resources and points of contact available to small businesses. SBA went beyond consultation by helping with the collection of compliance assistance summaries from the Federal executive branch and identifying agency points of contact.

### **Task Force Activity**

The Act requires the OMB Director or his representative to convene and chair an interagency task force, which must issue two reports addressing a total of five specific issues. Each report must be published in draft form in the Federal Register to allow public comment. The first report was due by June 28, 2003, and the second report is due June 28, 2004.

As you know, much work went into the first Task Force report. SBA's Office of Advocacy held a public meeting on March 4, 2003 to solicit views of small business. A draft report of findings and recommendations was published in the Federal Register on May 9, 2003 (68 FR 25166). The public comment period ended June 4, 2003, after which the comments were compiled and incorporated into the Final Report. The Final Report was delivered to Congress on June 26, 2003 and a Notice of Availability was published in the Federal Register on June 27, 2003.

The Task Force found that reducing small business paperwork burden is a challenge that raises both regulatory and information technology issues. The Task Force also found that the presidential e-government initiatives, such as the Business Compliance One-Stop Initiative, represent the best opportunity for reducing the paperwork burden on small business. Since the first Task Force report was released, the Business Compliance One-Stop Initiative has been renamed the Business Gateway initiative.

The second Task Force report is due June 28, 2004. In this report, the Task Force will (1) make recommendations to improve the electronic dissemination of information collected under Federal requirements, and (2) recommend a plan for the development of an interactive Government-wide system, available through the Internet, to allow each small business to better understand which Federal requirements regarding collection of information apply to that particular business, and more easily comply with those Federal

requirements. While making its recommendations, the Task Force will consider opportunities for coordination of Federal and State reporting requirements, and among points of contact.

Because the topics of the second report differ from those of the first report, different expertise is required. Therefore, in November 2003, OMB asked agencies to designate representatives to the Task Force for the purposes of developing the second and final report required under the Act. Agencies have done so, and the initial meeting of this Task Force was held on January 20, 2004. I serve as co-chair of the SBPRA Task Force, along with my colleague Karen Evans, the Administrator of OMB's Office of Electronic Government. The Task Force has formed two subgroups, one to address each issue identified in the Act. The Task Force will meet periodically to ensure that a final report is sent to Congress by the statutory deadline of June 28, 2004.

The SBA Office of Advocacy has graciously offered to convene a meeting for the small business community to provide comment and input on each of the two issues to be addressed by the Task Force. That meeting is scheduled to be held Monday, February 9, 2004. The input from that meeting will be used by the Task Force to write both the draft report, which will be published in the Federal Register for public comment, and the final report.

### **Agency Points of Contact**

The Act requires each covered agency to designate an appropriate person to serve as its point of contact. OMB, working in conjunction with the Small Business Administration, has incorporated the list of points of contact into the list of compliance assistance resources. Although such a consolidation is not required by the Act, we believe there are advantages in doing so: (1) it makes it easier for small businesses to find, (2) it provides us with an annual mechanism to ask agencies to review and update their point of contact information, and (3) it allows for public comment on the list of points of contact.

In my memorandum of October 28, 2003 to the President's Management Council (PMC), I informed agencies where the list of points of contact can be found. This list of agency points of contact has been available on the OMB website since June 28, 2003, and is also available on the SBA website. I also informed agencies how they can affect changes to their point of contact information. Periodically, we have updated the list to reflect agency changes to their point of contact information, and we will continue to do so.

The Subcommittees have, in the past, raised concerns about the accuracy, completeness, and accessibility of this list. OMB has responded to many of these concerns. For example, we re-posted our compliance assistance list and point of contact list in HTML format. In addition, we have carefully reviewed the November 2003 status report developed by the Subcommittee on Energy Policy, Natural Resources, and Regulatory Affairs, showing which agencies still need points of contact. This status

report prompted us to generate our own list of agencies that have one or more currently approved information collections that may affect small business. When we compared the results to our list of points of contact, we were able to verify that, in a few cases, we needed to add an agency to our list. In a few other cases, our list included agencies that do not currently impose paperwork burden on small business. We have contacted the missing agencies and asked them to designate a point of contact. Once we receive this information from each of these few agencies, we will update our list. At that time, we will remove from our list those agencies that do not currently have any approved information collections that affect small business.

The Subcommittees have also expressed an opinion that agency points of contact be under the direct authority of the agency chief information officer (CIO). In our view, the agencies are in the best position to determine their small business contact. What is important is that agency points of contact are able to assist small business; if they can provide this assistance, we do not think their location within an agency is critical.

The Subcommittees have also urged OMB to provide training to points of contact. With respect to training, it is important to note that each agency is unique with respect to its paperwork requirements; the burden it imposes on small business; its internal procedures for developing, maintaining, and distributing information collections; and its procedures for enforcing paperwork violations. For these reasons, OMB believes each agency is in the best position to train its point of contact.

### **Agency Efforts to Further Reduce Paperwork Burden**

The statute directs agencies to “make efforts to further reduce the information collection burden for small business concerns with fewer than 25 employees.” OMB believes that agencies are undertaking efforts to further reduce the paperwork burden on very small businesses, but documentation of these efforts is unavailable. Therefore, for the purposes of our annual information collection budget (ICB), OMB issued a bulletin to agencies requesting information on initiatives to reduce paperwork burden for small business concerns, with particular focus on businesses with fewer than 25 employees (see OMB Bulletin 04-01, December 3, 2003). This is the first time we have requested this particular information, which we believe will allow us to monitor agency performance over time with respect to this provision of SBPRA.

### **Agency Designations to the Task Force**

The Act requires certain agencies to designate representatives to the Task Force. Specifically, the Task Force must include not less than two representatives from Labor (including one from the Bureau of Labor Statistics and one from the Occupational Safety and Health Administration); not less than one representative of the Environmental Protection Agency; not less than one representative of the Department of Transportation; not less than one representative of the Office of Advocacy of the Small Business

Administration; not less than one representative of the Internal Revenue Service; not less than two representatives of the Department of Health and Human Services (including one from the Centers for Medicare and Medicaid Services); not less than one representative of the Department of Agriculture; not less than one representative of the Department of Interior; not less than one representative of the General Services Administration; and not less than one representative of each of two agencies not identified previously.

The roster for the first Task Force can be found within the Task Force report, which is on the OMB web site. Because the subject matter of the second report differs from the first report, different expertise is required. In November 2003, OMB asked agencies to designate representatives to the Task Force for the purposes of developing the second and final report required under SBPRA. Agencies have done so, and the Task Force held its initial meeting on January 20, 2004.

### **Agency Regulatory Enforcement Reports**

The Act requires each agency to develop two regulatory enforcement reports. The initial regulatory enforcement report is to include information with respect to the one-year period beginning October 1, 2002. The final report is to include information with respect to the one-year period beginning October 1, 2003. Each report is to include information on each of the following:

- (A) the number of enforcement actions in which a civil penalty is assessed,
- (B) the number of enforcement actions in which a civil penalty is assessed against a small entity,
- (C) the number of enforcement actions described under subparagraphs (A) and (B) in which the civil penalty is reduced or waived, and
- (D) the total monetary amount of the reductions or waivers referred to under subparagraph (C).

The Act states that each report shall include definitions (selected at the discretion of the reporting agency) of the terms “enforcement actions”, “reduction or waiver”, and “small entity” as used in the report.

Furthermore, the Act states that each agency shall submit its report to (A) the chairpersons and ranking minority members of (i) the Committee on Governmental Affairs and the Committee on Small Business and Entrepreneurship of the Senate; and (ii) the Committee on Governmental Reform and the Committee on Small Business of the House of Representatives; and (B) the Small Business and Agriculture Regulatory Enforcement Ombudsman designated under section 30(b) of the Small Business Act (15 U.S.C. 657(b)).

In my October 28, 2003 memorandum to the PMC, I reminded each agency that it should have some prior agency precedent in defining the terms "enforcement actions", "reduction or waiver" and "small entity." Section 223 of the 1996 "Small Business

Regulatory Enforcement Fairness Act of 1996" (P.L. 104-121), entitled "Rights of Small Entities in Enforcement Actions," required each agency by the spring of 1997 to "establish a policy or program . . . for the reduction, and under appropriate circumstances for the waiver, of civil penalties for violations of a statutory or regulatory requirement by a small entity." In addition, I noted that Section 223 also required each agency to report to Congress by the spring of 1998 "on the scope of their program or policy, the number of enforcement actions against small entities that qualified or failed to qualify for the program or policy, and the total amount of penalty reductions and waivers."

In addition to the October 28, 2003 PMC memorandum, OMB used other forums to communicate to agencies about their obligation to submit a regulatory enforcement report. On November 19, 2003, agencies were reminded of this obligation at the SBA Ombudsman's semi-annual interagency meeting. At that meeting, OMB staff told participants that the first regulatory enforcement report is due by December 31, 2003 and that information in this report should be consistent with agency information reported under the authority of the IG Act and the CFO Act. In the first week of December 2003, OMB desk officers sent e-mail reminders to all cabinet-level agencies to reiterate that (1) OMB expects agencies to submit their regulatory enforcement reports on time, and that (2) the information contained in these reports should be consistent with agency reports submitted pursuant to the IG Act and the CFO Act.

### **Specific Reductions in Reporting and Recordkeeping Requirements**

In your invitation letter, you requested that I identify specific reductions in reporting and recordkeeping requirements that exceeded 100,000 hours accomplished since the July 2003 hearing of this Subcommittee or planned in 2004 for small business. To respond to this request, I refer the Subcommittee to our 2003 ICB report, *Managing Information Collection and Dissemination*. That report identified specific agency initiatives that are designed to reduce paperwork burden. Many of these initiatives represent multi-year efforts, and some can be expected to reduce burden for small business in 2004. For example, the following initiatives—taken from our 2003 report—may result in actions to reduce small business paperwork burden in 2004:

- The Environmental Protection Agency (EPA), through rulemaking, will significantly reduce the paperwork burden imposed by regulations under the Resource Conservation and Recovery Act (RCRA). EPA is undertaking this initiative to ensure that only the information actually needed to run the RCRA program is collected. EPA estimates that the initiative will reduce burden by 929,000 hours and save \$120 million annually. A proposed rule was published in FY02.
- The Occupational Safety and Health Administration is undertaking rulemaking to update numerous health standards that are inconsistent, duplicative, or outdated. The proposal affects 18 information collections and would result in a 207,892-

burden hour reduction. Time for completion of this project hinges upon the number and complexity of public comments received on the proposed rule.

We expect to receive updates on these initiatives for inclusion in our 2004 report to Congress. In addition, other examples from the 2003 ICB might also meet your criteria, but we will not know for sure about the status or timing of these ongoing initiatives—or about new agency initiatives to reduce burden—until we receive agency submissions for our 2004 report.

In addition to agency initiatives planned for 2004, OMB has taken action on Information Collection Requests that are expected to reduce burden for small business. For example, last November, OMB approved an extension of the ICR for EPA's Energy Star program. Since the previous information collection was approved, EPA streamlined its information requirements. The estimated burden reduction is 134,371 hours. This burden reduction was partially achieved through electronic means.

When these efforts are considered in addition to the various e-government initiatives agencies have underway, agencies appear to be making a substantial effort to reduce burden on small business. As part of this effort, we continue to push agencies to include the PRA as an integral part of their management strategies. We want agencies to continue reducing burden on small businesses as efficiently as possible, regardless of whether these reductions are realized in the electronic or non-electronic realm.

## **Conclusion**

To conclude, Mr. Chairman, SBPRA implementation is on schedule. OMB has fulfilled its statutory requirement to issue a Task Force report and to publish a list of compliance assistance resources by the June 28, 2003 deadline. The Task Force is already working on the second report, which is due June 28, 2004. Aside from these statutory requirements, we have undertaken actions to ensure effective implementation of the Act. We have used a variety of methods to remind agencies of their obligations under the Act; we have taken, and will continue to take, steps to ensure that our list of agency points of contact is complete and accurate; and we have asked agencies to identify their efforts to further reduce the paperwork burden on small businesses with fewer than 25 employees. We know we have more work to do, but we believe we have made progress since the last time I testified before the Subcommittees.

Perhaps more importantly, the Administration continues its efforts to reduce paperwork burden through a variety of strategies. We continue to believe that e-government initiatives, such as the Business Gateway, provide an enormous opportunity to reduce the paperwork burden on small businesses.